

# Michigan Register

Issue No. 20 – 2001 (Published November 15, 2001)



## **GRAPHIC IMAGES IN THE MICHIGAN REGISTER**

### **COVER DRAWING**

#### ***Michigan State Capitol:***

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

### **PAGE GRAPHICS**

#### ***Capitol Dome:***

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19<sup>th</sup> century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

#### ***East Elevation of the Michigan State Capitol:***

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

# Michigan Register

**Published pursuant to § 24.208 of  
The Michigan Compiled Laws**



**Issue No. 20 — 2001**

(This issue, published November 15, 2001, contains  
documents filed from October 15, 2001 to November 1, 2001)

Compiled and Published by the  
**Office of Regulatory Reform**

© 2001 by Office of Regulatory Reform, State of Michigan  
All rights reserved.  
Printed in the United States of America

**Michigan Register (ISSN 0892-3124).** Published twice per month, with a cumulative index, by the Office of Regulatory Reform, pursuant to §24.208 of the Michigan Compiled Laws. Subscription \$110 per year, postpaid to points in the U.S. First class postage paid at Lansing, Michigan. Direct all mail concerning subscriptions to Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933. Telephone: 517-373-0526.

**Brian D. Devlin**, Director, Office of Regulatory Reform; **Alicia M. Sikkenga**, Attorney; **Deidre O'Berry**, Administrative Assistant for Operations; **James D. Lance**, Administrative Assistant for Publications.

**John Engler, Governor**



**Dick Posthumus, Lieutenant Governor**

---

## PREFACE

---

### PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

MCL 24.208 states:

Sec. 8 (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
  - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
  - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
  - (d) Proposed administrative rules.
  - (e) Notices of public hearings on proposed administrative rules.
  - (f) Administrative rules filed with the secretary of state.
  - (g) Emergency rules filed with the secretary of state.
  - (h) Notice of proposed and adopted agency guidelines.
  - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
  - (j) Attorney general opinions.
  - (k) All of the items listed in section 7(1) after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, 1978 PA 368, MCL 333.22215 and 333.22217.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
  - (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
  - (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
  - (5) An agency shall transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

MCL 4.1203 states:

Sec. 203. (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.

- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of Michigan register at a price determined by the office of regulatory reform not to exceed cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

#### **CITATION TO THE MICHIGAN REGISTER**

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

### **CLOSING DATES AND PUBLICATION SCHEDULE**

The deadlines for submitting documents to the Office of Regulatory Reform for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reform is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reform, Executive Office, George W. Romney Building, 111 S. Capitol Avenue, Lansing, MI 48933

### **RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE**

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year. Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

### **SUBSCRIPTIONS AND DISTRIBUTION**

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$110.00 per year. Submit subscription requests to: DMB, Office of Administrative Services, P.O. Box 30026, 320 South Walnut Street, Lansing, MI 48909. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reform (517) 373-0526.

### **INTERNET ACCESS**

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reform: [www.state.mi.us/orr](http://www.state.mi.us/orr)

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reform Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Brian D. Devlin, Director  
Office of Regulatory Reform



## 2001 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
2001		
18	October 1, 2001	October 15, 2001
19	October 15, 2001	November 1, 2001
20	November 1, 2001	November 15, 2001
21	November 15, 2001	December 1, 2001
22	December 1, 2001	December 15, 2001
23	December 15, 2001	January 1, 2002
24	January 1, 2002	January 15, 2002
2002		
1	January 15, 2002	February 1, 2002
2	February 1, 2002	February 15, 2002
3	February 15, 2002	March 1, 2002
4	March 1, 2002	March 15, 2002
5	March 15, 2002	April 1, 2002
6	April 1, 2002	April 15, 2002
7	April 15, 2002	May 1, 2002
8	May 1, 2002	May 15, 2002
9	May 15, 2002	June 1, 2002
10	June 1, 2002	June 15, 2002
11	June 15, 2002	July 1, 2002
12	July 1, 2002	July 15, 2002
13	July 15, 2002	August 1, 2002
14	August 1, 2002	August 15, 2002
15	August 15, 2002	September 1, 2002
16	September 1, 2002	September 15, 2002
17	September 15, 2002	October 1, 2002

# CONTENTS

---

## ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

---

Department of Natural Resources	
Law Enforcement Division (ORR # 1998-033)	
Regulation of Lands Administered by the Department of Natural Resources.....	2-9
Department of Consumer and Service Industries	
Bureau of Construction Codes (ORR # 2000-010)	
Construction Safety Standards.....	10-24

---

## EMERGENCY RULES

---

Department of Corrections	
General Rules .....	26-28

---

## PROPOSED ADMINISTRATIVE RULES, NOTICES OF PUBLIC HEARINGS

---

Department of Consumer and Service Industries	
Bureau of Commercial Services (ORR # 2000-034)	
Real Estate Appraisers.....	30-45
Department of Consumer and Service Industries	
Bureau of Commercial Services (ORR # 2000-034)	
Notice of Public Hearing .....	46-47
Department of Environmental Quality	
Air Quality Division (ORR # 2000-056)	
Air Pollution Control .....	48-81
Department of Environmental Quality	
Air Quality Division (ORR # 2000-056)	
Notice of Public Hearing .....	82-83

Department of Agriculture Pesticide and Plant Pest Management Division (ORR # 2001-025) Regulation No. 636. Pesticide Applicators .....	84-97
Department of Agriculture Pesticide and Plant Pest Management Division (ORR # 2001-025) Notice of Public Hearing .....	98-99
Department of Agriculture Agriculture Development Division (ORR # 2001-027) General Industry Standards .....	100-107
Department of Agriculture Agriculture Development Division (ORR # 2001-027) Notice of Public Hearing .....	108-109
Department of Environmental Quality Air Quality Division (ORR # 2001-040) Air Pollution Control .....	110-113
Department of Environmental Quality Air Quality Division (ORR # 2001-040, 059) Notice of Public Hearing .....	114-115
Department of Agriculture Fairs, Exhibitions and Racing Division (ORR # 2001-051) Regulation No. 808. Payment of Breeder's Awards.....	116-117
Department of Agriculture Fairs, Exhibitions and Racing Division (ORR # 2001-052) Regulation No. 812. State Purse Supplement for Harness Horse Racing and Pari-mutuel Tracks at Fairs.....	118-123
Department of Agriculture Fairs, Exhibitions and Racing Division (ORR # 2001-053) Regulation No. 814. Futurity and Sire Stakes Racers.....	124-129
Department of Agriculture Fairs, Exhibitions and Racing Division (ORR # 2001-054) Regulation No. 820. Michigan-Bred Pari-Mutuel Races.....	130-133

Department of Agriculture	
Fairs, Exhibitions and Racing Division (ORR # 2001-051, 052, 053, 054)	
Notice of Public Hearing .....	134-135

Department of Environmental Quality	
Air Quality Division (ORR # 2001-059)	
Air Pollution Control .....	136-144

Department of Consumer and Service Industries	
Director's Office (ORR # 2001-061)	
General Industry Standards .....	145-171

Department of Consumer and Service Industries	
Director's Office (ORR # 2001-061)	
Notice of Public Hearing .....	172-173

Department of Consumer and Service Industries	
Occupational Health Standards Commission (ORR # 2001-074)	
Occupational Health Standards - Benzene .....	174-175

Department of Consumer and Service Industries	
Bureau of Commercial Services (ORR # 2001-079)	
Residential Builders and Maintenance and Alteration Contractors.....	176

Department of Consumer and Service Industries	
Bureau of Commercial Services (ORR # 2001-079)	
Notice of Public Hearing .....	177-178

---

## OPINIONS OF THE ATTORNEY GENERAL

---

Opinion No. 7091	
Courts, Districts, Elections, Judges .....	180-186

Opinion No. 7092	
Children and Minors, Mental Health.....	187-191

Opinion No. 7093	
Incompatibility, Prosecuting Attorney's, Public Offices and Officers .....	192-195

---

**ENROLLED SENATE AND HOUSE  
BILLS SIGNED INTO LAW OR VETOED**

---

Table (2001 Session).....	197-215
---------------------------	---------

---

**MICHIGAN ADMINISTRATIVE CODE TABLE**

---

Table (2001 Session).....	217-224
---------------------------	---------

---

**CUMULATIVE INDEX**

---

Cumulative Index (2001) .....	225-233
-------------------------------	---------

---

**ADMINISTRATIVE RULES**  
**FILED WITH THE SECRETARY OF STATE**

---

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(f) Administrative rules filed with the secretary of state.”*

---

ADMINISTRATIVE RULES

---

**DEPARTMENT OF NATURAL RESOURCES**

**LAW ENFORCEMENT DIVISION**

**REGULATION OF LANDS ADMINISTERED BY THE DEPARTMENT OF  
NATURAL RESOURCES**

Filed with the secretary of state on October 10, 2001  
These rules take effect 7 days after filing with the secretary of state

(By authority conferred on the department of natural resources by section 504 of 1994 PA 451, MCL 324.504)

R 299.921 to R 299.933 are added to the Code as follows:

R 299.291a, R 299.301 - R 299.303, R 299.321 - R 299.328, R 299.331 - R 299.335, R 299.661 - R 299.667, and R 299.1001 - R 299.1004 are rescinded by R 299.933.

**R 299.921 Definitions.**

Rule 21. As used in these rules:

"Camp" means any of the following:

- (i) The erection of a tent.
- (ii) The opening or setting up of a tent-type camper.
- (iii) The parking and occupancy of a travel or house trailer.
- (iv) Sleeping in any type motor vehicle, sleeping bag, or sleeping in any other manner between the hours of 10 pm and 8 am.
- (b) "Commercial operations" means any activity that involves, directly or indirectly, the buying or selling of goods or services, or the exchange or attempt or offer to exchange goods or services for money, barter, or for anything of value.
- (c) "Day-use area" means a specific area of a state park or recreation area which is developed and maintained as an area to be used by the public for picnics, playground use, swimming, organized meetings, or social gatherings, and educational displays and exhibits and which has a 450-foot buffer zone around the area. "Day-use area" also includes all park and recreation area offices, out-buildings, garages, maintenance shops, museums, the 450-foot buffer zone around all such buildings, and any area of a state park or recreation area that the chief of the parks and recreation division designates as a "day-use area," either on a temporary or permanent basis, by posting the boundaries of that area as a "day-use area."
- (d) "Designated" means listed in a director's order, posted with a sign or signs at the site, or reasonably identified for a particular use.

(e) "Designated area" means an area that has been properly signed on the ground for cross-country ORV use.

(f) "Designated route" means forest roads that have been properly signed on the ground for ORV use.

(g) "Designated trail" means a 1-track path or way which is capable of travel by a 2- to 4-wheel vehicle that is less than 50 inches in width and which has been properly signed on the ground for ORV use.

"Event" means a single, structured, organized, consolidated, scheduled meeting or occurrence which is on state-owned lands and to which 1 or both of the following apply:

A fee or donation is required for participation.

(ii) The number of people involved is 20 or more individuals.

(i) "Forest road" means a hard surfaced road, a gravel or dirt road, or another route capable of being traveled by a 2-wheel drive 4-wheeled conventional vehicle designated for highway use, but does not include an interstate, state, or county highway.

(j) "ORV" means a motor-driven off-road recreational vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. "ORV" includes, but is not limited to, any of the following:

(i) A multitrack or multiwheel drive or low pressure tire vehicle.

(ii) A motorcycle or related 2-wheel or 3-wheel vehicle.

(iii) An amphibious machine.

(iv) A ground effect air cushion vehicle.

(v) Another means of transportation deriving motive power from a source other than muscle or wind.

"ORV" does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

(k) "Permit or proper written permission" means a written permit issued by the department.

(l) "Person" has the same meaning as defined in section 301 of 1994 PA 451, MCL 324.301.

(m) "Properly signed on the ground" means that signs have been posted by the department to mark the location or boundary of a designated trail, route, or area.

(n) "State forest officer" means a person commissioned by the director under section 83107 of 1994 PA 451, MCL 324.83107.

(o) "State park officer or state park and recreation enforcement officer" means a person commissioned by the director under section 74124 of 1994 PA 451, MCL 324.72124.

### **R 299.922 Unlawful acts generally.**

Rule 22. On lands owned or under the control of the department, it is unlawful for a person or persons to do any of the following:

(a) To enter, use, or occupy state-owned lands for any purpose when they are posted against entry, use, or occupancy, as ordered by the department.

(b) To dispose of refuse, rubbish, trash, or garbage not resulting from the use of state-owned lands in receptacles provided on state-owned lands.

(c) To set fire to the contents of a trash container.

(d) To place or burn garbage in a fire ring or stove, or bury refuse, rubbish, trash, or garbage, regardless of its origin.



- (e) To engage in any violent, abusive, loud, boisterous, vulgar, lewd, or otherwise disorderly conduct, or to lounge, sit, or lie upon walks, roads, or paths obstructing the free passage of another person.
- (f) To place or erect a fence or barrier, to construct or occupy improvements, or to enclose the lands.
- (g) To move, remove, destroy, mutilate, or deface posters, notices, signs, or markers of the department of natural resources or any other agency of government.
- (h) To destroy, damage, or remove trees, shrubs, wildflowers, grasses, or other vegetation. Except in wildlife food plots, this subdivision does not apply to picking and removing mushrooms, berries, and edible fruits or nuts for personal use.
- (i) To peddle or systematically solicit business of any nature; distribute or post any handbills or other advertising matter; post signs; paint or otherwise mark any tree or rock on any lands, waters, structures, or property; or use such areas for commercial operations.
- (j) To possess a glass container within any land or water area that is designated as a bathing beach or a land or water area that is regularly used for sunbathing, swimming, or wading.
- (k) To obstruct any road or trail in a manner that hinders public access to the lands.
- (l) To park vehicles of any type in areas posted as no parking; or, where designated parking areas exist, to park vehicles of any type in an area other than the designated parking area. If a motor vehicle is found parked on state lands, then the license plate displayed on the motor vehicle shall constitute prima facie evidence that the owner of the vehicle is the person who parked it there.
- (m) To hold events including, but not limited to, races, endurance contests, tournaments, or trail rides, unless the events are conducted pursuant to a permit. The permit may include a charge to the sponsor or permittee for the use of the land. An event may require a performance bond to insure permit compliance and may require public liability insurance. The department may waive the requirement for a permit for events where the number of participants is 20 or more individuals if the department determines that the event will not require department oversight and the event will have a minimal impact on the use of the lands by others.
- (n) To use a loudspeaker, public address system, or sound-amplifying equipment of any kind, except for an electronic game-calling device that is lawfully used while hunting, or to operate a motor, motorboat, motor vehicle, radio, television, generator, or any other device in a manner that produces excessive noise.
- (o) To use or operate any wheeled, motorized vehicle in the Upper Peninsula of this state, except on a designated route, a designated trail, a designated area, or a forest road not otherwise posted as closed to the use of motorized vehicles or entry.
- (p) To use or operate any wheeled, motorized vehicle in the Lower Peninsula of this state, except on a designated route, a designated trail, or a designated area. A wheeled, motorized vehicle that is properly registered under 1949 PA 300, MCL 257.1 et seq. may be operated on a forest road not otherwise posted as closed to the use of motorized vehicles or entry.
- (q) To camp in a state park, recreation area, public access site, or designated campground on other than a designated site.

- (r) To camp in any designated campground, access site, or location in a state forest or state game area for more than 15 consecutive nights in a calendar year. To be considered a new camp, the location shall be not less than 1/2 mile from the previous camp.
- (s) To leave a campsite unoccupied for more than a 24-hour period after the camp is established. A campsite is considered to be occupied if at least 1 member of the camping party is in attendance during the nighttime hours.
- (t) To store or leave a watercraft, fish shanty, or other property on state lands for more than 24 hours. This provision does not apply to lawfully occupied designated camping sites or to ground blinds and tree stands that meet legal requirements.
- (u) For more than 1 single family or more than 4 unrelated persons to camp on 1 designated campsite. For the purposes of this subdivision, a single family includes parents or guardians and their children. A single family may include other relatives if not more than 1 recreational vehicle, camping trailer, or pickup camper is used and if there are fewer than 9 individuals.
- (v) To ride or lead a horse, pack animal, or other riding animal, or any animal-driven vehicle on any area, except on roads that are open to the use of motor vehicles, trails, bridle paths, and campgrounds designated for such use by the department and on state forest lands not posted closed to such use or entry.
- (w) To operate the motor or motors of a vessel at more than idle speed at any boat launch ramp administered by the department, unless the propeller is disengaged.

**R 299.923 Public access sites and harbors; unlawful acts.**

Rule 23. In addition to the unlawful acts specified in R 299.922, at state-owned public access sites and harbors, it is unlawful for a person or persons to do any of the following:

- (a) To moor or raft off a state dock without having paid the docking fees authorized by the department for use of the facility.
- (b) To enter, use, or occupy the premises during the hours of 11 pm to 4 am daily where such closing hours are posted on the premises; or to swim, wade, or bathe when specifically prohibited by notices posted on the premises.

**R 299.924 State lands other than parks, recreation areas, game and wildlife areas, designated campgrounds and access sites; unlawful acts.**

Rule 24. In addition to the unlawful acts specified in R 299.922, on state lands owned or under the control of the department other than state parks, recreation areas, game and wildlife areas, designated campgrounds, and public access sites, it is unlawful for a person or persons to do either of the following:

- (a) To park any wheeled, motorized vehicle more than 50 feet from the traveled portion of a road, forest road, parking lot, or trail open to such vehicle use.
- (b) To use, operate, or possess a motorized vehicle on a designated state forest pathway.

**R 299.925 Designated campgrounds; unlawful acts.**

Rule 25. In addition to the unlawful acts specified in R 299.922, in designated department of natural resources-administered campgrounds, other than those in state parks, recreation areas, and access sites, it is unlawful for a person or persons to do any of the following:

- (a) To camp or place a camp of any type in a designated campground without first properly filling out the camp registration tag, which includes the payment of the posted camping fee, as directed on the camp registration tag. The camp registration tag is not considered properly filled out until the registration and fees are deposited in a receptacle as directed and the proper portion of the tag is posted at the campsite. The tag shall be furnished by the department and be available at the campground.
- (b) For an unregistered camper or campground visitor to enter or remain in a campground, day use area, beach, or parking lot between 10 pm and 8 am.
- (c) To discharge firearms, air guns, bow-and-arrow, crossbow, gas guns, spring-loaded guns, or sling shots.
- (d) To operate an ORV, snowmobile, or any motorized device, except for entrance to and departure from a designated campground.
- (e) To allow, place, or drive more than 2 motor vehicles onto 1 campsite or into a campground, except that 4 motorcycles are permitted if each is operated by a registered camper.
- (f) To build fires, except in designated places or except in stoves or grills that are approved by an authorized representative of the department.
- (g) To possess a dog or other animal, unless it is under immediate control on a leash that is not more than 6 feet in length.

**R 299.926 Game areas; unlawful acts.**

Rule 26. In addition to the unlawful acts specified in R 299.922, on state-owned lands in a state game area, it is unlawful for a person or persons to do any of the following:

- (a) To camp between May 15 and September 10, except in areas specifically designated for camping.
- (b) To park any wheeled, motorized vehicle more than 20 feet from the traveled portion of a road, forest road, parking lot, or trail open to wheeled, motorized vehicle use.
- (c) To operate any self-propelled motor or mechanically driven vehicle, including snowmobiles and bicycles, on other than a designated established road open to the public, a trail or area properly signed by the department as being open to such use, or a parking lot.

**R 299.927 State parks and recreation areas; unlawful acts.**

Rule 27. In addition to the unlawful acts specified in R 299.922, in state parks and state recreation areas, it is unlawful for a person or persons to do any of the following:

- (a) To enter or remain in a campground, outdoor center, cabin area, or day campsite between the hours of 10 pm and 8 am, unless the person is a lawfully registered occupant. A person shall not enter or remain in a day-use area between the hours of 10 pm to 8 am.
- (b) To carry or have in his or her possession a firearm, unless unloaded in both barrel and magazine; to shoot an air gun, gas gun, spring-loaded gun, or slingshot; or to shoot with a bow and arrow or crossbow, except during established hunting seasons on lands designated open to hunting under the authority of an order issued under sections 40107 and 40113a of 1994 PA 451, MCL 324.40107 and 324.40113a. This subdivision does not apply to a target range or archery range officially established by the department or to an officially sanctioned field trial. A person shall not engage in target shooting, except on designated shooting ranges.

- (c) To obtain a camping permit for use by a camping party of which the person is not a member.
- (d) To camp for more than 15 consecutive nights in any separately administered campground in a park or recreation area between May 15 and September 15. If a camping party is required to leave a campground upon reaching the 15-night limit, then the party is not eligible to return until 5 nights have elapsed.
- (e) To use a campground for a permanent or semipermanent residence.
- (f) To ride a bicycle of any kind, except on paved and nonpaved roads, parking lots, and designated, signed bicycle trails.
- (g) To allow, place, or drive more than 2 motor vehicles onto 1 campsite or into a campground, except 4 motorcycles are permitted if each is operated by a registered camper.
- (h) To build fires, except in designated places or except in stoves or grills that are approved by an authorized representative of the department.
- (i) To walk into, or drive a vehicle into or through, a controlled camping area. This provision does not apply to registered campers and their vehicles or to persons legitimately visiting a specific, registered camper.
- (j) To allow a dog or other animal within a water or land area designated as a bathing beach or in any other water area used for swimming or wading; to bring a dog, except leader dogs for the blind, or other animal into an enclosed park building or leave a dog or other animal unattended at any time; to permit a dog or other animal to run loose or create a disturbance unless the dog is being used in hunting, or in field trials, or while being trained, when upon lands open to such uses; or to fail to properly control a dog or other animal. Any dog found not in the possession of, or under the immediate control of, its owner or the owner's agent, or any dog creating a nuisance or disturbance, may be removed from the park.
- (k) To possess a dog or other animal unless it is under immediate control on a leash that is not more than 6 feet in length. This provision does not apply to a dog being used for hunting, or in field trials, or while being trained, when upon lands open to such uses.
- (l) To ride, permit, or allow a horse or other riding animal in any area, except for a designated bridle trail or horseperson's campground, or when in compliance with a permit issued for a field dog trial.
- (m) To camp without a camping permit issued by an authorized representative of the department of natural resources.

**R 299.928 Rose lake wildlife area; unlawful use of skis; area defined.**

Rule 28. (1) In addition to the unlawful acts specified in R 299.922 and R 299.926, on the rose lake wildlife area, it is unlawful for a person to use skis from November 1 through January 1.

(2) For the purpose of this rule, "rose lake wildlife area" means the state-owned lands and waters in sections 13, 14, 21, 22, 23, 24, 25, 26, 27, and 34 of T5N, R1W, and sections 17, 20, 21, 22, 28, and 29 of T5N, R1E.

**R 299.929 Violation of rules; revocation of permit or eviction.**

Rule 29. In addition to any other penalty prescribed by law, violation of any of these rules may result in the revocation of a camping permit or eviction from the state park, recreation area, access site, game area, or designated campground, or both.

**R 299.930 Persons exempt from rules.**

Rule 30. Department employees acting in the line of duty, and persons performing specific acts or conducting activity authorized by written permission are exempt from these rules.

**R 299.931 Enforcement authority; state park officer; state park and recreation officer.**

Rule 31. A state park officer and a state park and recreation officer may enforce any of the following acts or parts of acts:

- (a) Sections 255, 311, 624a, 624b, 674, 904, and 904a of 1949 PA 300, MCL 257.255, 257.311, 257.624a, 257.624b 257.674, 257.904, and 257.904a.
- (b) Section 703 of 1998 PA 58, MCL 436.1703.
- (c) Chapter 48 of 1931 PA 328, MCL 750.335 to 750.347.
- (d) Chapter 52 of 1931 PA 328, MCL 750.356 to 750.367C.
- (e) Section 377a of 1931 PA 328, MCL 750.377A.
- (f) Sections 7403 and 7404 of 1978 PA 368, MCL 333.7403 and 333.7404.
- (g) Section 243a to 243e of 1931 PA 328, MCL 750.243a to 750.243e.
- (h) Part 89 of 1994 PA 451, MCL 324.8901 to 324.8907.
- (i) Section 167 of 1931 PA 328, MCL 750.167.

**R 299.932 Enforcement authority; state forest officer.**

Rule 32. A state forest officer may enforce any of the following acts or parts of acts:

- (a) Sections 255, 311, 624a, 624b, 674, 904, and 904a of 1949 PA 300, MCL 257.255, 257.311, 257.624a, 257.624b 257.674, 257.904, and 257.904a.
- (b) Section 703 of 1998 PA 58, MCL 436.1703.
- (c) Chapter 48 of 1931 PA 328, MCL 750.335 to 750.347.
- (d) Chapter 52 of 1931 PA 328, MCL 750.356 to 750.367c.
- (e) Section 377a of 1931 PA 328, MCL 750.377a.
- (f) Sections 7403 and 7404 of 1978 PA 368, MCL 333.7403 and 333.7404.
- (g) Section 243a to 243e of 1931 PA 328, MCL 750.243a to 750.243e.
- (h) Part 89 of 1994 PA 451, MCL 324.8901 to 324.8907.
- (i) Section 167 of 1931 PA 451, MCL 750.167.
- (j) Part 515 of 1994 PA 451, MCL 324.51501 to 324.51514.
- (k) Part 742 of 1994 PA 451, MCL 324.74201 to 324.74207.
- (l) Part 811 of 1994 PA 451, MCL 324.81101 to 324.81150.
- (m) Part 821 of 1994 PA 451, MCL 324.82101 to 324.82160.

**R 299.933 Rescissions.**

Rule 33. R 299.291a, R 299.301 to R 299.303, R 299.321 to R 299.328, R 299.331 to R 299.335, R 299.661 to R 299.667, and R 299.1001 to R 299.1004 of the Michigan Administrative Code, appearing on pages 1417 to 1425, 1438 to 1440, 1456, and 1457 of the 1979 Michigan Administrative Code, pages 55 and 56 of the 1980 Annual Supplement to the Code, and pages 173 and 174 of the 1986 Annual Supplement to the Code, are rescinded.

---

ADMINISTRATIVE RULES

---

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**CONSTRUCTION SAFETY STANDARDS**

Filed with the Secretary of State on July 23, 2001

These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 19 and 21 of 1974 PA 154 and Executive Reorganization Order No. 1996-2, MCL 408.1019, 408.1021, and 445.2001)

R 408.42201, R 408.42211, R 408.42213, R 408.42221, R 408.42223, R 408.42224, R 408.42229, R 408.42230, R 408.42233, R 408.42234, R 408.42235, R 408.42236, R 408.32237, R 408.32238, R 408.42241, R 408.42243 of the Michigan Administrative Code are amended, R 408.42222 of the Michigan Administrative Code is rescinded, and R 408.42225 is added to the code as follows:

**PART 22. SIGNALS, SIGNS, TAGS, AND BARRICADES**

**R 408.42201 Scope.**

Rule 2201. This part pertains to the design, placement, relocation, covering, removal, use, and maintenance of signals, traffic control devices, accident prevention signs, tags, and barricades for construction operations.

**R 408.42211 Definitions; A to C.**

Rule 2211. (1) "Accident prevention sign" means a sign used to warn of a hazard or to provide safety instructions or directions.

(2) "Accident prevention tag" means a tag which is used to warn of an existing or immediate hazard and which is temporarily attached to a part of equipment or a structure.

(3) "Barricade" means a readily visible obstruction used to direct the passage of employees or vehicles.

(4) "Barrier" means a device that is designed to prevent penetration from a way of travel to areas behind the barrier to minimize injury to employees who perform construction operations.

(5) "Caution sign or tag" means a sign or tag used to warn of a potential hazard or to warn against an unsafe practice.

**R 408.42213 Definitions; E to T.**

Rule 2213. (1) "Exit sign" means a sign used to designate a point of discharge from a room or building.

(2) "Handhold" means an affixed device or designated place where a person riding on a moving vehicle or on equipment to perform work can stabilize his or her position by gripping with his or her free hand or hands.

(3) "Out of order tag" means a tag used to indicate a machine is malfunctioning.

(4) "Safety instruction sign" means a sign used for general instruction or suggestion relative to safety.

(5) "Sign" means a board, sheet, poster, or placard displayed to convey information or direction either temporarily or permanently.

(6) "Signal" means a specific use of hands or a visual or audible device, such as a flashing light or horn, to warn of a possible or existing hazard.

(7) "Tag" means a piece of material, usually paper, metal, or plastic, attached to a piece of equipment or structure for the purpose of identification, instruction, or classification.

(8) "Traffic control devices" means all signs, signals, markings, and devices placed or erected for the purpose of regulating, warning, and guiding vehicular traffic and for providing employee protection in a work zone.

(9) "Traffic regulator" means a person who has been trained, properly attired, and equipped to regulate traffic flow to provide employee protection in a work zone.

**R 408.42221 Duties of employer.**

Rule 2221. (1) An employer shall provide, install, and maintain signals, signs, barricades, and tags, as prescribed by this part, where an employee might be, or would likely be, injured if not alerted to the hazard.

(2) An employer shall provide training appropriate to the work assignment for each employee engaged in activities covered by this part. The following are examples of the training that may be required:

(a) Recognition of hazards, such as, but not limited to, possible masonry wall collapse areas, crane swing areas, floor opening covers, or traffic control hazards.

(b) Traffic regulator training.

(c) Proper placement and removal of signs, signals, tags, and barricades.

(d) Training in how to perform work in proximity to traffic to minimize vulnerability.



**R 408.42222 Rescinded.**

**R 408.42223 Traffic control.**

Rule 2223. (1) Traffic control devices shall be installed and maintained as prescribed in part 6, as revised January 2001, of the 1994 edition of the Michigan Manual Of Uniform Traffic Control Devices, (MMUTCD) which is adopted in these rules by reference. Part 6 is available for review at the Michigan Department of Consumer and Industry Services, Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909, or is available at no cost from any of the Michigan Department of Transportation (MDOT) Regional Offices, MDOT Service Centers, or MDOT Central Offices in Lansing, Michigan.

(2) An employer shall ensure that all operations have routine inspections of traffic control elements for acceptable levels of operation. When traffic exposures are such that signs, signals, or barricades do not provide the necessary protection on, or adjacent to, a highway or street, traffic regulators or other appropriate traffic controls shall be provided. Modification of traffic controls, such as additional signs or devices, or a change in work operations, shall be determined by a qualified person who is responsible for the project traffic control.

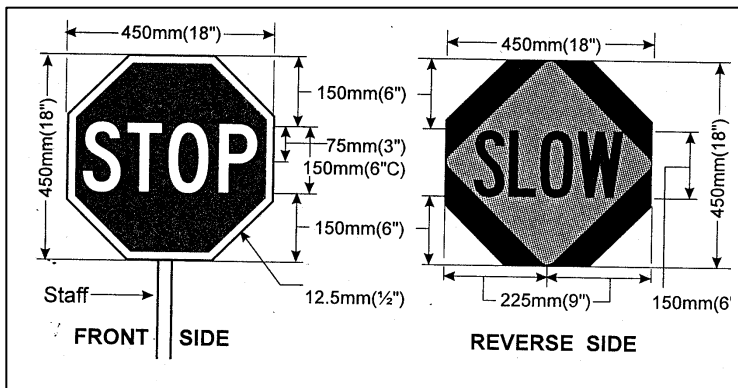
(3) Signaling directions by traffic regulators shall conform to the provisions of part 6, as revised January 2001, of the 1994 edition of the Michigan Manual of Uniform Traffic Control Devices, which is adopted in these rules by reference.

(4) A hand-held paddle sign shall have 2 faces and it shall be attached to a staff of suitable design that will allow the entire unit to be held and controlled by 1 traffic regulator. The bottom of the sign shall be a minimum of 6 feet (1.8 meters) above the roadway surface. The sign shall be fastened to the staff so that no part of the legend is obscured. The portion of the staff within the sign face shall match the sign colors. The sign shall not be less than 18 by 18 inches (450 millimeters x 450 millimeters) and the letters shall have a minimum height of 6 inches (150 millimeters). All letters and spacing between letters shall be as prescribed in part 6, as revised January 2001, of the 1994 edition of the Michigan Manual of Uniform Traffic Control Devices (MMUTCD) which is adopted in these rules by reference. The legend shall be optically centered horizontally on the sign. One side of the sign shall display a "stop" face and the other side shall display the message "slow", except that if it is necessary for 1 traffic regulator to stop 2 directions of traffic at the same time, then a "stop" face shall be used on each side of the sign. The "stop" face shall have a red background with white letters and border. The "slow" face shall have an orange background with black letters and border. The shape of the sign shall be octagonal and the portions of the sign other than the diamond-shaped "slow" face shall be black. When the sign paddle is used during hours of darkness, the red and white of the "stop" face and the orange of the "slow" face shall be reflectorized. Sheet metal or other light semirigid material may be used for mounting the "stop" and "slow" faces.

(5) If signaling by a traffic regulator is necessary on construction operations that are not within a public right-of-way, then a hand-held paddle sign as specified in subrule (4) of this rule shall be used.

(6) The paddle sign shall be as follows:

#### DETAIL OF PADDLE SIGN



\*NOTE: The dimensions shown for the sign are minimum. Proportionately larger paddle signs may be used.

(7) In periods of darkness, appropriate lighting shall be used to illuminate the traffic regulator and the traffic regulator station. The lighting shall be as is required in part 6 of the Michigan Manual of Uniform Traffic Control Devices (MMUTCD) which is adopted by reference in this rule. Appropriate lighting means lighting that illuminates the traffic regulator so that he or she is visible to oncoming traffic and does not impair either the traffic regulator's or motorists' visibility due to blinding or shadowing.

(8) An employer shall provide, and a traffic regulator shall wear, a vest, a shirt, or a jacket that is fluorescent orange, yellow, strong yellow green, or a combination of these colors and shall contain retro reflective material that is orange, yellow, white, silver, or strong yellow green. A traffic regulator's vest, shirt, or jacket shall be clearly visible at 360 degrees through the full range of body motion day and night.

(9) An employer shall require that the garment is inspected before each use for all of the following:

- (a) Wear.
- (b) Damage.
- (c) Fading.
- (d) Reflectivity.
- (e) Other deterioration.

Defective garments shall be reported to the employer and the employer shall either repair or replace the garment.

(10) A traffic regulator shall also wear head, eye, and foot protection as prescribed in Construction Safety Standard Part 6 "Personal Protective Equipment," R 408.40601 et seq. of the Michigan Administrative Code. A copy of these rules are available at no cost from the Michigan Department of Consumer and Industry Services, Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909, web-site: [WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD](http://WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD).

(11) If vehicular traffic violates traffic laws and creates a hazard to employees performing construction operations, then an employer shall notify the appropriate law enforcement agencies of the unit of government exercising authority over the roadway for the enforcement of applicable speed limits and other traffic laws.

**R 408.42224 Barricades for construction operations on other than public right-of-way.**

Rule 2224. (1) A barricade that has a high point of not less than 36 inches (900 millimeters) shall be provided to direct vehicular traffic to protect an employee performing construction operations.

(2) A barricade shall be provided to obstruct or direct an employee from a hazardous area of a construction operation not otherwise affected by another standard.

(3) If an employee is working during a period of darkness, then a barricade shall be made visible by ambient illumination or by attached lighting.

**R 408.42225 Placement, removal, relocation, and use of traffic control devices from a moving vehicle; handholds.**

Rule 2225. Construction and maintenance operations from a moving vehicle.

(1) Construction and maintenance operations that require placement, relocation, or removal of pavement markings, or traffic control devices such as drums, barricades, cones, or signs, shall provide protection to an employee by any of the following methods:

(a) Use of a seat and a seatbelt.

(b) A standard guardrail system as prescribed in Construction Safety Standard Part 45 'Fall Protection,' R 408.44501 which adopts C.F.R. §1926.502 et seq. by reference. A copy of these rules are available at no cost from the Michigan Department of Consumer and Industry Services, Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909, web-site: [WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD](http://WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD).

(c) A guardrail as described in subdivision (b) of this subrule may be modified as follows for the following operations as specified in paragraphs (i) and (ii) of this subdivision. These rules apply only to the placement, removal, relocation, and use of traffic control devices from a moving vehicle, and do not apply to the transportation of an employee or employees outside of the construction influence area (CIA) or from point to point within the CIA.

Transportation of an employee or employees outside of the construction influence (CIA) or from point to point within the CIA area shall be as required in C.F.R. §1926.601(b)(8) and (b)(9), which is adopted by reference in Construction Safety Standard Part 13 'Mobile Equipment,' R 408.41301 et seq. of the Michigan Administrative Code. A copy of these rules are available at no cost from the Michigan Department of Consumer and Industry Services, Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909, web-site: [WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD](http://WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD).

(i) For continuous moving operations, the top rail of a guardrail may be removed at the point of operation when a handhold is provided and is used and only during continuous moving operations for the placement, removal, or relocation of traffic control devices, such as cones, tubular devices, or pavement markings.

(ii) For intermittent stopping operations, a section of guardrail may be removed at the point of operation when a handhold is provided and is used when intermittent stopping of the vehicle is required for the placement, removal, or relocation of traffic control devices, such as drums, signs, or pavement markings. The handhold shall be used by employees at all times when the vehicle is in motion and it shall be located so that the employee is positioned a minimum of 48 inches (1.2 meters) in distance from the area from the railing that has been removed.

(d) Use of other means that will provide equivalent fall protection for an employee may be used. Such a system shall be performance oriented and shall be designed so that it does not create a greater hazard to the employee.

(2) A handhold shall be oriented and a size to promote gripping by wrapping fingers around not less than 270 degrees (3 sides) of the device or place designated. The handhold shall be capable of withstanding not less than 200 pounds of force in any direction and be free from rough edges, slippery surfaces, or hazardous projections. The handhold shall be in place and identified as such before employees are permitted to perform their assigned tasks while riding on moving vehicles.

#### **R 408.42229 Signs generally.**

Rule 2229. (1) A sign and its fastening device shall be free of sharp edges, burrs, splinters, or other sharp projections that could create a hazard.

(2) If conditions warrant the use of a sign size that is not specified in tables 2 to 5, then the ratio of the height of the identifying panel, such as "DANGER" or "CAUTION", to the width of the sign shall be maintained as prescribed in the tables.

(3) Signs shall be removed or covered when the hazard addressed by the sign no longer exists.

**R 408.42230 Letter style and size.**

Rule 2230. (1) A letter shall be block style and upper case for the top panel and upper or upper and lower case for the bottom panel. Letters and numbers shall be legible.

(2) Letter size shall be determined by the length of the message and the maximum visibility and readability. Table 2 shall be used as a guide for the minimum letter height at a safe viewing distance.

(a) The spacing of letters and words shall not reduce legibility.

(b) The height of a letter that is more than 5 inches (125 millimeters) high shall be increased by an additional 1 inch (25 millimeters) for each 35 feet (10.5 meters) of viewing distance.

(3) Table 2 reads as follows:

TABLE 2

MINIMUM HEIGHT OF LETTERS		VIEWING DISTANCE	
Inches	Millimeters	Feet	Meters
5	<b>125</b>	201 – 250	<b>60.3 - 75</b>
4 1/2	<b>113</b>	151 – 200	<b>45.3 - 60</b>
4	<b>100</b>	121 – 150	<b>36.3 - 45</b>
3 1/2	<b>88</b>	106 – 120	<b>31.8 - 36</b>
3	<b>75</b>	91 – 105	<b>27.3 - 31.5</b>
2 1/2	<b>63</b>	76 – 90	<b>22.8 - 27</b>
2	<b>50</b>	61 – 75	<b>18.3 - 22.5</b>
1 1/2	<b>38</b>	41 – 60	<b>12.3 - 18</b>
1	<b>25</b>	31 – 40	<b>9.3 - 12</b>
3/4	<b>19</b>	21 – 30	<b>6.3 - 9</b>
1/2	<b>13</b>	10 – 20	<b>3 - 6</b>
1/4	<b>6</b>	Less than 10	<b>3</b>

**R 408.42233 Danger sign.**

Rule 2233. (1) A danger sign to alert employees shall be used where an immediate hazard exists. The sign shall be removed when the hazard no longer exists.

(2) The proportions for a danger sign shall be not less than those prescribed in table 3 and the format of figure 1 shall be followed.

(3) A danger sign shall have the signal word "danger" in white within a red oval outlined in white on a black rectangular background in the upper panel. The lower panel where additional wording may be used shall be black or red letters on a white background as shown in figure 1.

(4) An employee shall be instructed that a danger sign indicates immediate danger and that special precautions are necessary.

TABLE 3 STANDARD PROPORTIONS FOR DANGER SIGNS

Sign Size		Black Rectangular Panel		Red Oval		Word Danger		Minimum Available Wording	
Inches	Millimeter	Inches	Millimeter	Inches	Millimeter	Inches	Millimeter	Inches	Millimeter
7 x 10	175 X 250	3 1/4 x 9 3/8	81 X 234	2 7/8 x 8 1/2	72 X 213	1 7/16	36	2 3/4 x 9 3/8	69 X 234
10 x 14	250 X 350	4 5/8 x 13 3/8	116 X 334	4 1/8 x 1 7/8	103 X 297	2 1/16	52	4 1/4 x 13 3/8	106 X 334
14 x 20	350 X 500	6 1/2 x 19 3/8	163 X 484	5 3/4 x 17	144 X 425	2 7/8	72	6 1/4 x 19 3/8	156 X 484
20 x 28	500 X 700	9 1/4 x 27 3/8	231 X 684	8 1/4 x 23 7/8	206 X 597	4 1/8	103	9 1/2 x 27 3/8	238 X 584
10 x 7	250 X 175	2 3/8 x 6 3/8	59 X 159	2 1/8 x 5 7/8	53 X 147	1 1/16	27	6 3/8 x 6 3/8	159 X 159
14 x 10	350 X 250	3 1/4 x 9 3/8	81 X 234	2 7/8 x 8 1/2	72 X 213	1 7/16	36	9 1/2 x 9 3/8	238 X 234
20 x 14	500 X 350	4 5/8 x 13 3/8	116 X 334	4 1/8 x 11 7/8	103 X 297	2 1/16	52	14 x 13 3/8	350 X 334
28 x 20	700 X 500	6 1/2 x 19 3/8	163 X 484	5 3/4 x 17	144 X 425	2 7/8	72	20 1/4 x 19 3/8	506 X 484

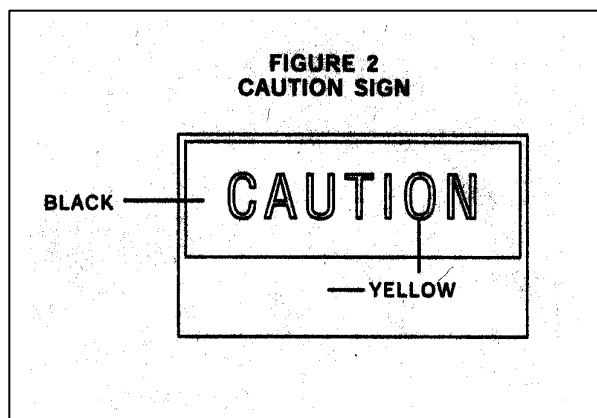
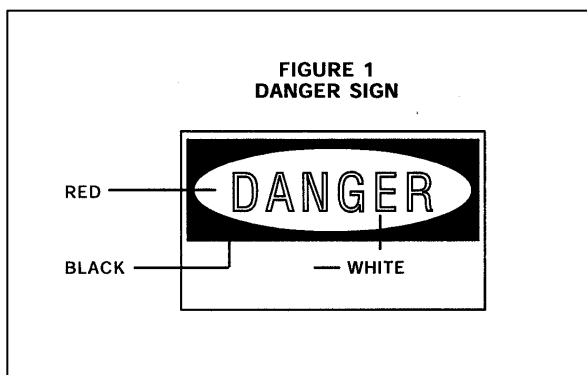
**R 408.42234 Caution sign.**

Rule 2234. (1) A caution sign shall be used to warn of a potential hazard or to caution against an unsafe practice.

(2) The proportions for a caution sign shall be not less than those prescribed in table 4 and the format of figure 2 shall be followed.

(3) A caution sign shall have the signal word "caution" in yellow on a black background in the upper panel. The lower panel where additional wording may be used shall be black letters on a yellow background.

(4) An employee shall be instructed that a caution sign indicates a possible hazard and that proper precautions shall be taken.



**TABLE 4**  
**STANDARD PROPORTIONS FOR CAUTION SIGNS**

SIGN SIZE		BLACK RECTANGULAR PANEL		WORD "CAUTION" HEIGHT OF LETTER		MINIMUM SPACE AVAILABLE FOR SIGN WORDING BELOW PANEL	
HORIZONTAL PATTERN							
Inches	Millimeter	Inches	Millimeter	Inches	Millimeter	Inches	Millimeter
7 x 10	175 X 250	2 1/4 x 9 3/8	56 X 234	1 5/8	41	3 1/4 x 9 3/8	81 X 234
10 x 14	250 X 350	3 1/4 x 13 3/8	81 X 3 3/4	2 1/4	56	5 1/2 x 13 3/8	138 X 334
14 x 20	350 X 500	3 3/4 x 19 3/8	94 X 484	2 3/4	69	9 x 19 3/8	225 X 484
20 x 28	500 X 700	4 1/4 x 27 3/8	106 X 684	4 1/4	106	14 1/2 x 27 3/8	363 X 684
UPRIGHT PATTERN							
10 x 7	250 X 175	1 5/8 x 6 3/8	41 X 159	1 1/8	28	7 x 6 3/8	175 X 159
14 x 10	350 X 250	2 1/4 x 9 3/8	56 X 234	1 5/8	41	10 1/2 x 6 3/8	263 X 159
20 x 14	500 X 350	3 1/4 x 13 3/8	81 X 334	2 1/4	56	15 1/2 x 13 3/8	388 X 334
28 x 20	700 X 500	3 3/4 x 19 3/8	94 X 484	2 3/4	69	24 x 19 3/8	600 X 484

**R 408.42235 Safety instruction sign.**

Rule 2235. (1) A safety instruction sign shall be used for a general instruction or suggestion relative to safety measures.

(2) The proportions for a safety instruction sign shall be not less than those prescribed in table 5 and the format of figure 3 shall be followed.

(3) A safety instruction sign shall have the signal word in white on a green background in the upper panel. The lower panel where additional wording may be used shall be black letters on a white background.

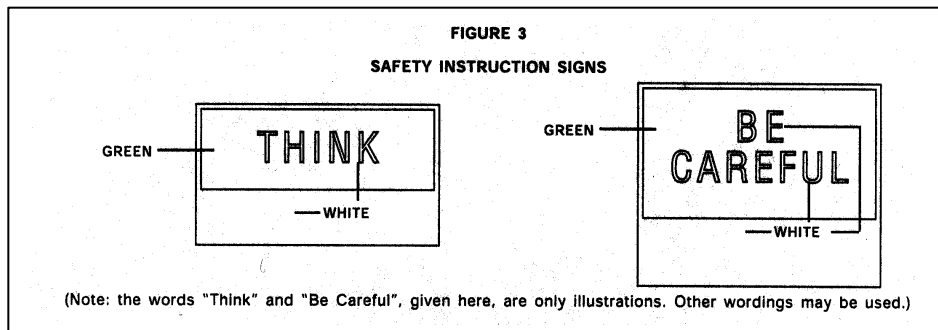




TABLE 5

## PROPORTIONS FOR SAFETY INSTRUCTION SIGNS

SIGN SIZE		GREEN RECTANGULAR PANEL		WORD "THINK" HEIGHT OF LETTERS		MINIMUM SPACE AVAILABLE FOR SIGN WORDING BELOW PANEL	
Inches	Millimeters	Inches	Millimeters	Inches	Millimeters	inches	Millimeters
7 x 10	175 X 250	2 ¾ x 9 3/8	69 X 234	1 3/8	34	3 1/2 x 9 3/8	88 X 234
10 x 14	250 X 350	3 ¼ x 13 3/8	81 X 334	2 ¼	56	5 1/2 x 13 3/8	138 X 334
14 x 20	350 X 500	3 ¾ x 19 3/8	94 X 484	2 ¾	69	9 x 19 3/8	225 X 484
20 x 28	500 X 700	4 ¼ x 27 3/8	106 X 684	3 ¼	81	14 1/2 x 27 3/8	363 X 684

SIGN SIZE		GREEN PANEL		WORD "BE" HEIGHT OF LETTERS		WORD "CAREFUL" HEIGHT OF LETTERS	
Inches	Millimeters	Inches	Millimeters	Inches	Milli-meters	Inches	Milli-meters
7 x 10	175 X 250	3 3/8 x 9 3/8	84 X 234	1 3/4	42	1 3/16	28
10 x 14	250 X 350	4 ¾ x 13 3/8	119 X 334	1 3/4	42	2 3/16	55
14 x 20	350 X 500	6 ¾ x 19 3/8	169 X 484	2 1/2	63	3 1/8	78
20 x 28	500 X 700	9 ½ x 27 3/8	238 X 684	3 1/2	88	4 3/8	109

MINIMUM SPACE AVAILABLE FOR SIGN WORDING BELOW PANEL	
Inches	Millimeters
2 1/2 x 9 3/8	63 X 234
4 x 13 3/8	100 X 334
6 x 19 3/8	150 X 484
9 1/4 x 27 3/8	231 X 684

**R 408.42236 Exit sign.**

Rule 2236. An exit sign, when required, shall be lettered in legible red letters, not less than 6 inches (150 millimeters) high, on a white background, and the principal stroke of the letters shall not be less than 3/4 (19 millimeters) of an inch wide.

**R 408.42237 Directional signs.**

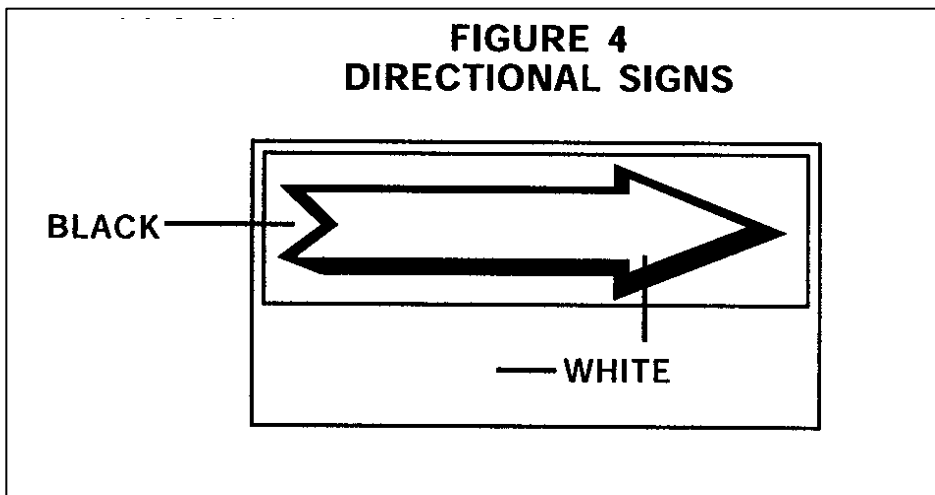
Rule 2237. (1) A directional arrow, other than a traffic control sign, used on a danger, caution, or safety instructional sign shall be black.

(2) A safety related directional sign shall have a white arrow on a black upper panel with the lower panel white and any letters in black.

(3) A directional sign shall use proportions prescribed in table 6

Figure 4

Safety Directional Signs



**TABLE 6**  
**STANDARD PROPORTIONS FOR SAFETY DIRECTIONAL SIGNS**

SIGN SIZE		BLACK RECTANGULAR PANEL		OVER-ALL LENGTH		MAXIMUM SPACE FOR SIGN WORDING BELOW PANEL	
Inches	Millimeters	Inches	Millimeters	Inches	Millimeters	Inches	Millimeters
6 1/2 x 14	163 X 350	3 1/4 x 13 3/8	81 X 334	12 3/8	309	2 1/4 x 13 3/8	56 X 334
9 x 20	225 X 500	4 1/2 x 19 3/8	113 X 484	18 5/8	466	2 3/8 x 19 3/8	59 X 484
12 x 28	300 X 700	6 x 27 3/8	150 X 684	28 3/8	709	4 3/4 x 27 3/8	119 X 684
15 x 36	375 X 900	7 1/2 x 35 3/8	188 X 884	34 5/8	866	5 1/2 x 35 3/8	138 X 884

ARROW HEAD HEIGHT WIDTH		ARROW SHAFT HEIGHT		ARROW TAIL HEIGHT WIDTH	
Inches	Millimeters	Inches	Millimeters	Inches	Millimeters
2 3/4 x 3	69 X 75	1 1/8	28	2 3/8 x 3 1/4	59 X 81
3 3/4 x 4 1/8	94 X 103	1 5/8	41	3 1/4 x 4 1/2	81 X 113
5 1/8 x 5 3/8	128 X 134	2 1/8	53	4 3/8 x 6	109 X 150
6 3/8 x 6 7/8	159 X 172	2 3/8	59	5 1/2 x 7 1/2	138 X 188

**R 408.32238 Signs for blasting and use of explosives.**

Rule 2238. Where blasting and the use of explosives takes place, signs shall be as prescribed in Construction Safety Standard Part 27 'Blasting And Use of Explosives,' R 408.42701 et seq. of The Michigan Administrative Code. A copy of these rules are available at no cost from the Michigan Department of Consumer And Industry Services, Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909, web-site: [WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD](http://WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD).

**R 408.42241 Accident prevention tags generally.**

Rule 2241. (1) An appropriate accident prevention tag shall be used as a temporary means of warning an employee of an existing hazard, such as defective tools or equipment. A tag shall not be used in place of an accident prevention sign or considered a complete warning method.

(2) A tag shall be affixed by string, wire, or adhesive.

(3) A tag shall be large enough to attract attention to the hazard but not less than 2 3/8 (59 millimeters) by 4 3/4 (119 millimeters) inches.

(4) The signal word shall be in bold type.

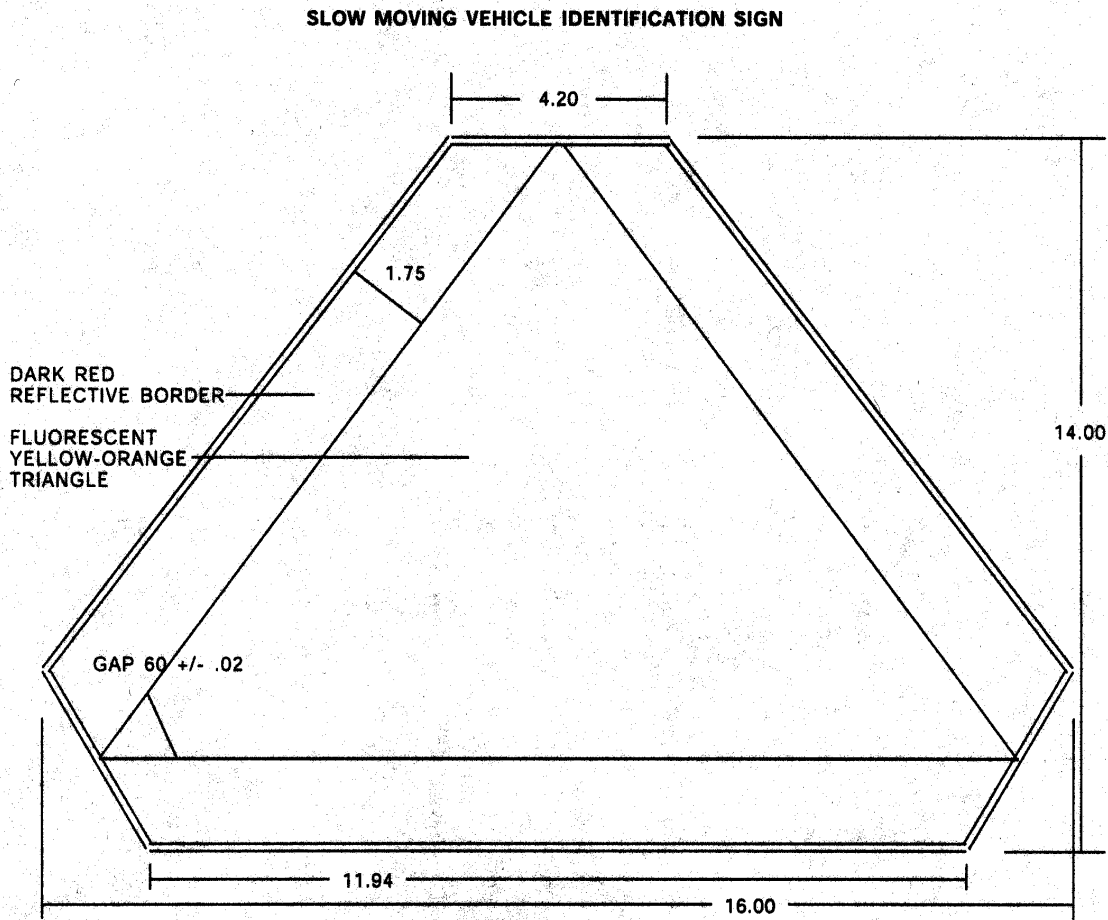
**R 408.42243 Signs for slow-moving vehicles.**

Rule 2243. (1) A sign as prescribed in this rule shall be attached to the rear of any vehicle that, by design, moves at 25 miles per hour or less on any public, private, or temporary road.

(2) The sign shall be entirely visible in daylight and at night from a distance of not less than 600 feet (180 meters).

(3) The sign shall be mounted point up and shall be placed centrally at the rear of the vehicle, unobscured, and at 3 feet (.9 meters) to 5 feet (1.5 meters) above the ground measured from the lower edge of the sign. The sign shall be securely attached to the vehicle.

# SLOW-MOVING VEHICLE IDENTIFICATION SIGN



(Note: Dimensions are in decimal inches.)

---

**EMERGENCY RULES**

---

MCL 24.248 states:

*“Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 indorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule. An emergency rule shall not be numbered and shall not be compiled in the Michigan Administrative Code, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.*

*(2) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, the agency shall comply with the procedures prescribed by this act for the processing of a rule which is not an emergency rule. The rule shall be published in the Michigan register and in the code.”*

---

**EMERGENCY RULES**

---

**DEPARTMENT OF CORRECTIONS**

**GENERAL RULES**

**EMERGENCY RULES**

Filed with the Secretary of State on November 6, 2001 at 3:55pm est.  
These rules take effect upon filing with the Secretary of State

(By authority conferred on the director of the department of corrections by sections 7 and 48 of 1969 PA 306, MCL 24.207 and 24.248 and section 6 of 1953 PA 232, MCL 791.206)

**FINDING OF EMERGENCY**

The director of the department of corrections finds that the preservation of the public health, safety, and welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 of 1969 PA 306, MCL 24.241 and 24.242. Due to recent events involving hazardous, dangerous and other suspicious materials being sent through the United States mail system, it is necessary for the Department to limit potential exposure by requiring incoming mail to be opened in one location at each Department worksite to protect the health and safety of both employees and prisoners. Due to this and other recently implemented safety measures, such as the use of protective gloves and particulate masks by staff in opening all correspondence, the department of corrections can no longer allow for legal mail to be opened in a prisoner's presence upon request of the prisoner, and R 791.6603 must be immediately amended.

Suspension of the practice of opening of legal mail in a prisoner's presence and amendment of R 791.6603.

Rule 1. The practice of opening legal mail in a prisoner's presence upon request of the prisoner is suspended.

Rule 2. R 791.6603 is amended to read as follows:

**R 791.6603 Mail rights; writing materials and postage; incoming mail; inspection; limitations; legal correspondence; notice of rejection; violations of rules appeals.**

Rule 603. (1) A prisoner who is in general population status shall be permitted to send sealed letters to any person or organization, subject to the limitations of this rule. However,

all outgoing mail shall contain a return address, including the prisoner's full name, prison number, and institutional name and address. Any outgoing mail that does not contain at least the prisoner's prison number will be destroyed. Mail of a prisoner who is in segregation status shall be subject to inspection, except for correspondence to any of the following entities:

- (a) Attorneys.
- (b) Courts.
- (c) Public officials.
- (d) The director.
- (e) The legislative corrections ombudsman.
- (f) Representatives of the news media, being persons who are primarily employed to gather or report news for any of the following:
  - (i) A newspaper of general circulation in the community in which it publishes.
  - (ii) A magazine of statewide or national circulation that is sold at newsstands or by mail to the general public.
  - (iii) A radio or television station that is licensed by the federal communications commission.
- (g) The warden of the institution in which the prisoner is segregated.

(2) A prisoner shall be provided, at no individual expense, with a reasonable quantity of writing materials and, if indigent, as determined by policy established by the director, with a reasonable amount of free postage each month, not to exceed the equivalent of 10 first-class mail stamps for letters within the United States of 1 ounce or less. Additional postage shall be loaned to prisoners to post mail to courts, attorneys, and parties to a lawsuit that is required for pending litigation. The department shall provide air, certified, registered, oversize, foreign, and overweight mail service for use at the prisoner's individual expense only, except that the cost of certified mail will be loaned to a prisoner if the department is required to do so by a court order. A prisoner shall not be allowed to receive stamps through the mail. All stamps shall be purchased through the prisoner store.

(3) Subject to the limitations of this rule, a prisoner may receive any printed, typed, or handwritten items that are transmitted through the United States postal service, interdepartmental mail, or a commercial delivery service, except for a catalog, unless it is from a vendor that is authorized by the institution, or multiple copies of the same item. Incoming mail from other correctional facilities may be read. All incoming mail shall be opened and inspected for money and contraband before delivery to the addressee. The department shall follow the guidelines of the auditor general for the receiving and safe handling of money and valuables confiscated from incoming mail. Subject to the limitations of this rule, a prisoner may receive any book, periodical, or other publication if it is sent directly from a publisher or retail outlet that is authorized by the institution head. A prisoner shall not receive used books or other used publications.

(4) A prisoner shall not be allowed to send or receive any item of mail that is or does any of the following:

- (a) Contravenes federal or state law.
- (b) Violates postal regulations.
- (c) Contains contraband, which is defined as any property that a prisoner is not specifically authorized to possess.
- (d) Contains a criminal plan or conspiracy.



- (e) Is threatening.
  - (f) Is addressed to any party who expressly objects to receiving mail from a prisoner if the item is sent after the prisoner has been notified of the objection.
  - (g) Is a threat to the order and security of the institution or the rehabilitation of a prisoner.
  - (h) Is from another prisoner, except when the prisoners are immediate family members or are seeking or giving legal assistance as approved by the department. For the purposes of this subdivision, an immediate family member means any of the following entities:
    - (i) Grandparents.
    - (ii) Parents.
    - (iii) A spouse.
    - (iv) Children.
    - (v) Step-children.
    - (vi) Siblings.
    - (vii) Aunts and uncles if verification is provided that they served as surrogate parents.
  - (i) Is for the purpose of operating a business enterprise.
- (5) The department may intercept, open, inspect, read, and refuse to transmit mail when there are reasonable grounds to believe the mail is being sent contrary to the provisions of this rule. This subrule shall not apply to clearly identified correspondence to any of the following entities, unless a specific written request is made by the entity:
- (a) Courts.
  - (b) Attorneys.
  - (c) Public officials.
  - (d) The legislative corrections ombudsman.
  - (e) Members of the department's central office staff.
  - (f) The warden of the institution in which the prisoner is incarcerated.
- (6) A prisoner who is not allowed to send or receive an item of mail that is determined to be in violation of the provisions of this rule may appeal to the warden.
- (7) When the department rejects an item, pursuant to the provisions of this rule, that has been mailed to a prisoner in one of its facilities, it shall send written notification of the rejection to the sender if the sender's address is included on the correspondence. The sender may appeal the rejection to the warden.

Bill Martin, Director \_\_\_\_\_  
Michigan Department of Corrections

Date \_\_\_\_\_

---

**PROPOSED ADMINISTRATIVE RULES  
NOTICES OF PUBLIC HEARINGS**

---

*MCL 24.242(3) states in part:*

*“... the agency shall submit a copy of the notice of public hearing to the office of regulatory reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the office of regulatory reform.”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(d) Proposed administrative rules.*

*(e) Notices of public hearings on proposed administrative rules.”*

---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**REAL ESTATE APPRAISERS**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the department of consumer and industry services by sections 205, 308, 2605, and 2617 of 1980 PA 299, MCL 339.205, 339.308, 339.2605 and 339.2617 and Executive Reorganization Order No. 1996-2, MCL 445.2001)

R 339.23101, R 339.23103, R 339.23201, R 339.23203, R 339.23207, R 339.23301, R 339.23303, R 339.23307, R 339.23309, R 339.23311, R 339.23317, R 339.23319, R 339.23321, R 339.23323, R 339.23401, R 339.23403, and R 339.23405 of the Michigan Administrative Code are amended, and R 339.23326 is added to the Code, as follows:

**PART 1. GENERAL PROVISIONS**

**R 339.23101 Definitions.**

Rule 101. (1) As used in these rules:

(a) "Act" means 1980 PA 299, MCL 339.101 et seq., and known as the occupational code.

~~(b) "Board" means the board of real estate appraisers.~~

(b) "Licensee" means an individual who is licensed pursuant to the provisions of UNDER article 26 of the act, including a real estate valuation specialist, A LIMITED REAL ESTATE APPRAISER, a state licensed real estate appraiser, A CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER, or a state-certified GENERAL real estate appraiser.

(c) "Market analysis," as performed by an appraiser, means studies of a defined real estate market and the current and projected economic factors that could influence the use or value of classes of real property within that market, without establishing the value of a specific property within that market.

(D)(e) "Market analysis as performed by a real estate licensee" means the activity defined in section 2601(a)(i) AND (ii) of the act AND MEANS ANALYSIS SOLELY FOR THE PURPOSE OF ESTABLISHING POTENTIAL SALE, PURCHASE, OR LISTING PRICE OF REAL PROPERTY OR THE RENTAL RATE OF REAL PROPERTY AND IS NOT FOR THE PURPOSE OF EVALUATING A PROPERTY FOR MORTGAGE LENDERS IN THE PRIMARY OR SECONDARY MORTGAGE MARKET.

(E) AUNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE" OR "USPAP" MEANS THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE, PUBLISHED BY THE APPRAISAL FOUNDATION, EFFECTIVE

JANUARY 1, 2002. COPIES OF THE USPAP 2002 EDITION ARE AVAILABLE AT A COST OF \$30.00, PLUS \$5.50 FOR SHIPPING, AT THE TIME OF ADOPTION OF THESE RULES, FROM THE APPRAISAL FOUNDATION, 1029 VERMONT AVENUE NW, SUITE 900, WASHINGTON DC 20005-3517; MAIL ORDERS: P.O. BOX 96724, WASHINGTON D.C. 20090-6734, PHONE: TOLL-FREE 800/805-7857, or 240/864-0100, INTERNET ADDRESS: WWW.APPRAISALFOUNDATION.ORG. THE USPAP 2002 EDITION CAN BE REVIEWED AT OR PURCHASED FROM THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, BUREAU OF COMMERCIAL SERVICES, 2501 WOODLAKE CIRCLE, OKEMOS, MICHIGAN 48864, PHONE: 517/241-9236, AT A COST AS OF THE TIME OF ADOPTION OF THESE RULES OF \$50.00, PLUS \$11.00 ORDERING AND SHIPPING COSTS.

~~(2) As used in section 2633(c) of the act, "owner" means either the current or prospective owner of the property.~~

~~(2)(3) "Real estate counseling" "CONSULTING", as used in sections 2613, 2614, and 2615 of the act, IS THAT FUNCTION OR FUNCTIONS DESCRIBED IN STANDARDS 4 AND 5 means real estate consulting as described in OF the uniform standards of professional appraisal practice. Consulting generally includes studies of real property other than estimating value and may include land utilization studies; highest and best use analyses; marketability, feasibility, or investment studies; or other research related studies, as presented in a written document.~~

(3) AA COURSE COVERING THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE" AS USED IN SECTION 2627(5) AND "THE UNIFORM STANDARDS OF APPRAISAL PRACTICE AND ETHICS" IN SECTIONS 2611(1), 2613(A)(XV), 2614(B)(XV), AND 2615 (B)(XV) OF THE ACT MEANS THE 15-HOUR NATIONAL USPAP COURSE OR THE 7-HOUR NATIONAL USPAP UPDATE SEMINAR, OR THEIR EQUIVALENT, AS REQUIRED BY THE AQB REAL PROPERTY APPRAISER QUALIFICATION CRITERIA, ADOPTED ON OCTOBER 27, 2000, AND EFFECTIVE JANUARY 1, 2003.

(4) Terms defined in articles 1 to 6 and article 26 of the act have the same meanings when used in these rules.

**R 339.23103 BOARD MEETINGS. ~~Conduct of public meetings; "chairperson" defined.~~**

Rule 103. ALL BOARD MEETINGS ARE CONDUCTED IN ACCORDANCE WITH 1976 PA 267, MCL 15.261 ET SEQ., KNOWN AS THE OPEN MEETINGS ACT, AND ARE OPEN TO THE PUBLIC. ~~(1) For the purpose of this rule, "chairperson" means the person who is authorized to convene and moderate a meeting of the board or any committee of the board and also means any other person who acts temporarily as convenor or moderator.~~

~~(2) Each person who is present at a public meeting shall be provided a reasonable opportunity to address the public meeting on an agenda item or on a topic which is relevant to the public body but which is not on the agenda if the person makes a request to the board's offices or to the department before the meeting or to the chairperson before the conclusion of the meeting.~~

~~(3) A group of 5 or more persons may be asked to give advance notice to the chairperson or the department of its intention to attend a meeting so that an effort may be made to provide adequate space. Such advance notice is not required.~~

~~(4) The chairperson shall do all of the following:~~

~~(a) Conduct the public participation portion of the meeting in an orderly and decorous fashion.~~

~~(b) Within the time limits available, recognize each person wishing to speak.~~

~~(c) Allow for public comment on each agenda item and allocate a specific time on the agenda for general public comments.~~

~~(d) Exclude a person from the meeting only for a breach of the peace actually committed at the meeting.~~

~~(5) The chairperson may do any of the following:~~

~~Limit the number of persons who are admitted to the meeting room if necessary to comply with public safety laws and regulations.~~

~~(b) Temporarily recess and promptly reconvene the meeting in a larger meeting room if more space is necessary.~~

~~(c) Impose reasonable limitations on the time allotted for public comments.~~

~~(d) Inquire as to the interest or interests, if any, represented by a person who addresses the meeting.~~

~~(e) To preserve the rights of all parties, prohibit a member of the public from addressing the meeting on the subject of a contested case that is pending before the board until a disposition of the case has been voted upon by the board.~~

## **PART 2. LICENSING**

### **R 339.23201 Acceptable appraisal experience generally.**

Rule 201. (1) Credit for appraisal experience shall be based on the actual performance of appraisals. The department shall not grant experience credit to an applicant solely on the basis of total hours of employment in an appraisal firm or other entity. The actual performance of appraisals includes time spent in such professional activities as personally inspecting real property, conducting research and developing materials supporting the appraisal, preparing the content of appraisal reports, and presenting the appraisal to the client. It does not include time spent in the solicitation of business, negotiation and development of client agreements, clerical tasks, or business accounting and collections, even though such tasks may be appropriately billed to a client as a necessary part of performing the appraisal.

(2) Credit shall not be given for performing more than 40 hours per week of professional experience, unless specific experience, which is verified by a supervisor, can be provided to demonstrate that an individual worked more hours in that week. However, experience in excess of 40 hours a week that is obtained before January 1, 1992, may be verified by a supervisor's affidavit.

(3) HOURS CREDITED PER APPRAISAL SHALL BE CREDITED BASED UPON THE NUMBER OF HOURS SPENT ON EACH ASSIGNMENT, NOT TO EXCEED THE NUMBER OF HOURS IN THE FOLLOWING TABLE:

# 2001 MR 20

PROPERTY TYPES	MAX. ALLOWABLE HOURS
SINGLE FAMILY RESIDENTIAL	8
RESIDENTIAL MULTI FAMILY (2 TO 4 UNITS)	20
RESIDENTIAL MULTI FAMILY (5 TO 12 UNITS)	36
RESIDENTIAL MULTI FAMILY (13 OR MORE UNITS)	40
RESIDENTIAL LOT SUBDIVISIONS	6
RURAL RESIDENTIAL LAND (IMPROVED 20 ACRES OR LESS)	40
RURAL RESIDENTIAL LAND (VACANT 20 ACRES OR LESS)	16
AGRICULTURAL FARM OR FOREST LAND	12
INDUSTRIAL (INDUSTRIAL PARK, BUSINESS CAMPUS, WAREHOUSING, MANUFACTURING PLANT, ETC.)	40
INDUSTRIAL PARK OR BUSINESS CAMPUS LAND (VACANT)	24
MULTI FAMILY LAND (VACANT)	24
COMMERCIAL PROPERTIES: SINGLE TENANT MULTI TENANT (IMPROVED OFFICE BLDG, RETAIL STORE, RESTAURANT, SERVICE STATION, BANK, DAYCARE CENTER, NURSING HOME, ETC.)	40
COMMERCIAL LAND (VACANT)	80
	24

~~To meet the requirement of the act that experience be completed over 2 calendar years, an applicant's record shall show experience dated in not less than 2 different calendar years.~~

(4) Qualifying experience in performing real estate appraisals on or after January 1, 1992, shall be obtained while the individual is licensed as a real estate valuation specialist, LIMITED REAL ESTATE APPRAISER, CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER, or state licensed real estate appraiser or is properly exempt from licensing.

~~(5) An individual who was engaged in obtaining experience in performing real estate appraisals shall be deemed to have been an appraiser as required by section 2621(e) of the act if he or she meets both of the following requirements:~~

~~(a) The experience was gained before January 1, 1992.~~

~~The individual was licensed, or not required to be licensed, as set forth in the provisions of R 339.23205.~~

~~(5) A LIMITED REAL ESTATE APPRAISER SHALL BE SUBJECT TO DIRECT SUPERVISION BY A SUPERVISING APPRAISER WHO SHALL BE STATE LICENSED OR CERTIFIED IN GOOD STANDING. THE SUPERVISING APPRAISER SHALL BE RESPONSIBLE FOR THE TRAINING AND DIRECT SUPERVISION OF~~

~~THE LIMITED REAL ESTATE APPRAISER BY ACCEPTING RESPONSIBILITY FOR THE APPRAISAL REPORT BY SIGNING AND CERTIFYING THE REPORT IS IN COMPLIANCE WITH THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE BY DOING BOTH OF THE FOLLOWING:~~

(A) REVIEWING THE APPRAISER TRAINEE APPRAISAL REPORT OR REPORTS. PERSONALLY INSPECTING EACH APPRAISED PROPERTY WITH THE LIMITED REAL ESTATE APPRAISER UNTIL THE SUPERVISING APPRAISER DETERMINES THE LIMITED APPRAISER IS COMPETENT IN ACCORDANCE WITH THE COMPETENCY PROVISION OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP) FOR THE PROPERTY TYPE.

SEPARATE LOGS SHALL BE MAINTAINED FOR EACH SUPERVISING APPRAISER, AND EACH LOG SHALL CONTAIN THE SIGNATURE, THE LICENSE OR CERTIFICATION NUMBER, AND THE LEVEL OF LICENSURE OF THE SUPERVISING APPRAISER. (SEE ALSO R 339.23401 FOR INSPECTION REQUIREMENTS FOR FEDERALLY RELATED TRANSACTIONS.)

**R 339.23203 Appraisal experience; satisfactory evidence.**

Rule 203. (1) For an applicant's experience hours to be accepted, the experience shall be in compliance with ALL OF the following requirements, as applicable:

~~(a) For a candidate who presents experience as an assessor, supervised assessing experience hours shall be verified by the supervising state certified assessor.~~

(A) ~~(b) For a candidate who presents experience as an appraiser,~~ Appraisal experience shall be demonstrated by copies of reports and file memoranda. A detailed log WHICH INCLUDES THE DATE, PROPERTY ADDRESS, PROPERTY TYPE, AND A CLEAR INDICATION OF THE TIME DEVOTED TO EACH APPRAISAL shall be submitted to the department. ~~which includes the date, property address, property type, and a clear indication of the time devoted to each appraisal.~~ The information in the log shall be capable of being documented by work samples, ~~or~~ AND SHALL INCLUDE an affidavit of a supervisor, ~~IF upon a requested~~ by the department. IF A SUPERVISOR IS NOT AVAILABLE, IF THE APPLICANT WAS THE SUPERVISOR, OR IF THE APPLICANT WAS SELF-EMPLOYED, THEN THE DEPARTMENT MAY REQUIRE AN AFFIDAVIT FROM A PROFESSIONAL COLLEAGUE OR FROM AN INSTITUTION FOR WHOM THE WORK WAS PERFORMED TO SUPPORT THE DOCUMENTATION OF THE APPLICANT.

(B) ~~(c) If documentation pursuant to the provisions of UNDER subdivision (b) (A) of this SUBRULE rule is not available and the appraisal experience was obtained before January 1, 1992, the hours of supervised experience shall be verified by an affidavit from the applicant's supervisor. The affidavit shall include, BUT NOT BE LIMITED TO, all of the following information:~~

~~(i) A statement that the signer has personal knowledge of the applicant's work.~~

(ii) The applicant's employment history with that supervisor or employer.

(iii) An explanation regarding why the actual log and work reports are not available.

(iv) The number and types of appraisal reports as reported on the license application and a statement that the number of hours of appraisal experience are accurately represented.

(v) A statement that the appraisal reports complied with the uniform standards of professional appraisal practice or the equivalent appraisal standards that were in effect at the time the appraisals were performed.

(vi) The signature of the individual who completed the affidavit and the individual's license number and type of license, if applicable, or a statement that the signer is exempt from licensure and the reason for the exemption.

(2) AN APPLICANT FOR A LICENSE SHALL DEMONSTRATE EXPERIENCE GAINED IN ALL OF THE FOLLOWING AREAS OF THE APPRAISAL PROCESS:

(a) DEFINING THE APPRAISAL PROBLEM.

(b) GATHERING AND ANALYZING DATA.

(c) APPLYING APPROPRIATE VALUE APPROACHES AND METHODOLOGY.

ARRIVING AT AN OPINION OF VALUE.

REPORTING THE OPINION OF VALUE.

~~(d) If the work was not an appraisal, other types of work, such as feasibility studies, market analysis performed by an appraiser as defined in R 339.23101(l)(d), real estate counseling(CONSULTING), and highest and best use analysis, shall be in compliance with the uniform standards of professional appraisal practice or the equivalent appraisal standards that were in effect at the time the experience was obtained.~~

~~(e) If a supervisor is not available, if the applicant was the supervisor, or if the applicant was self-employed, the applicant shall be able to verify experience with copies of appraisal reports or file memoranda. The department may require an affidavit from a professional colleague or from an institution for whom the work was performed to support the documentation of the applicant.~~

(3) ~~(f)~~ Documents that support the information that is contained in an application, an applicant's experience log, or an affidavit shall be maintained for not less than 5 years from the date of application.

### **R 339.23207 Market analysis by real estate licensees; acceptable experience.**

Rule 207. Market analysis as performed by a real estate licensee ~~as defined in R 339.23101(l)(e)~~ may be included in the experience required IN R 339.23203, ~~of an individual seeking licensure as a real estate appraiser~~ if both of the following conditions are met:

(a) The applicant provides proof that he or she was properly licensed as a real estate broker, associate broker, or salesperson when the real estate market analysis was performed.

~~(b) THE ANALYSIS IS PREPARED IN CONFORMITY WITH STANDARDS 1 AND 2 OF USPAP, AND THE INDIVIDUAL CAN DEMONSTRATE THAT HE OR SHE IS USING SIMILAR TECHNIQUES AS APPRAISERS TO VALUE PROPERTIES AND EFFECTIVELY UTILIZES THE APPRAISAL PROCESS.~~ The applicant is able to demonstrate that the real estate licensee conducted research into the selling or rental price, or both, of comparable properties, viewed the subject property and comparable properties, and prepared a document presenting the research conducted and a conclusion as to the sale, purchase, listing, or rental price of the specific property. Unless an applicant can provide documentation acceptable to the department of specific additional hours in the preparation



of a market analysis as performed by a real estate licensee, not more than 2 hours of experience credit shall be given for each property represented.

### **PART 3. APPRAISER EDUCATION GENERAL PROVISIONS**

#### **R 339.23301 Definitions.**

Rule 301. As used in this part:

~~(a) "Clock hour" means a period of not less than 50 minutes of actual classroom instruction, not including outside assignments and reading.~~

(A)~~(b)~~ "Continuing education course" means a course that is represented as fulfilling the requirements of section 2627 of the act.

(B)~~(c)~~ "Coordinator" means an individual who assumes, on behalf of a course sponsor, the responsibility pursuant to these rules for offering courses relating to the activities of real estate appraisers.

(C)~~(d)~~ "Instructor" means an individual who is deemed qualified by the sponsor to instruct students in prelicensure or continuing education courses and who provides instruction directly and interactively in ~~face-to-face~~ contact with students. An instructor may utilize guest speakers, but shall bear ultimate responsibility to the sponsor for the quality of information imparted to students.

(D)~~(e)~~ "Prelicensure course" means a course that is represented as fulfilling, in whole or in part, the requirements of section 2611, 2613(a), 2614 (B) or 2615(b) of the act.

(E)~~(f)~~ "Sponsor" means an entity which meets the requirements of section 2617(2) of the act and which offers or proposes to offer either prelicensure appraiser education or continuing education.

#### **R 339.23303 Education; submission of documentation by license applicants.**

Rule 303. (1) In submitting documentation of prelicensure education obtained before the effective date of the act or from course sponsors that are not approved pursuant to these rules, the applicant shall show that the course was designed to teach individuals to perform appraisals or to augment a basic knowledge of appraisal with general information that the instructor then relates to the performance of appraisals.

(2) General educational courses, such as business, economics, statistics, or law, or general courses in real estate or real estate law will not be considered equivalent to approved prelicensure education unless a relationship to appraisal is shown in the course description, syllabus, or curriculum outline to the extent that not less than 15 ~~clock hours~~ CLASSROOM HOURS in the classroom were specifically related to appraisal. ~~clock hours~~ CLASSROOM HOURS of credit shall only be granted for hours that are specifically related to appraisal.

(3) An applicant's submission of documentation of prelicensure education or a submission of documentation of continuing education by a licensee shall include all of the following information:

(a) The date and place the course was taken.

(b) The name of the sponsor and the sponsor's current address or telephone number, if available.

- (c) A copy of the course outline, syllabus, detailed curriculum, or similar information.
- (d) A copy of the certificate of completion.
- (e) The number of ~~clock-hours~~ CLASSROOM HOURS spent in the course. TO HAVE THE CONTINUING EDUCATION HOURS APPROVED BY THE DEPARTMENT, CONTINUING EDUCATION COURSE SPONSORS UTILIZING DISTANCE LEARNING SYSTEMS SHALL HAVE AN ACCEPTABLE METHOD OF ENSURING THAT THE STUDENT ACHIEVES AN EQUIVALENT TO CLASSROOM HOURS.
- (4) In submitting documentation of education from institutions of higher education that are authorized to grant degrees which confer credit hours rather than ~~clock-hours~~ CLASSROOM HOURS , 1 credit hour shall be equivalent to 10 ~~clock-hours~~ CLASSROOM HOURS of actual ~~classroom~~ instruction FOR TERM CREDITS, AND 15 CLASSROOM HOURS OF INSTRUCTION FOR SEMESTER CREDITS.
- (5) Documentation to support information on the application for course approval shall be maintained for not less than 5 years from the date of the application.
- (6) To assist applicants, the department shall maintain a list of courses that are acceptable to the DEPARTMENT. ~~board.~~

**R 339.23307 Conduct of courses; changes in courses.**

Rule 307. (1) A course sponsor shall comply with all of the following requirements:

- (a) A course shall not be represented to licensees or to the public as meeting the requirements of the act AND THESE RULES until it has been approved by the department. ~~as meeting the requirements of the act and these rules.~~
- (b) Solicitation of organizational membership, employment, or business-related products and services is prohibited during qualifying course ~~clock-hours~~ CLASSROOM HOURS .
- ~~(c) A sponsor shall appoint an individual as coordinator for the sponsor's courses. The coordinator shall be responsible for supervising the program of courses and assuring compliance with the code and these rules. The coordinator need not be a licensee.~~
- ~~(d) Each course shall be taught by an instructor who meets the requirements of~~ R 339.23309(2). A sponsor shall permit only an instructor who meets the requirements of R 339.23309(2) to teach the course.
- (e) Each student shall be provided with a written syllabus that contains, at a minimum, all of the following information:
  - (i) The course title.
  - (ii) The times and dates of the course offering.
  - (iii) The name, business address, and telephone number of the course coordinator and the name of the instructor.
  - (iv) A detailed outline of the subject matter to be covered and the estimated time to be devoted to each subject.
- (f) A course shall not be credited for more than 10 ~~clock-hours~~ of classroom HOURS OF instruction in 1 calendar day. Calculations of classroom hours for a course shall not include any of the following:
  - (i) Meals.
  - (ii) Breaks.
  - (iii) Registration.
  - (iv) Required reading.

- (v) Outside assignments.
- (g) Each course shall reflect the most current version of state and federal laws and regulations.
- (h) A sponsor shall permit the department to review a course at any time or to inspect the records of a course sponsor during normal business hours.
- (i) A sponsor whose programs are transferred to another entity shall arrange for student records to be maintained permanently by the successor entity. The successor entity shall assure that course completion information is available to students who need to verify their education.
- (2) The department shall accept or reject a change in, or addition to, the information provided to the department on an original application within 30 days of notification of the change. The department may determine that a proposed change cannot be made without the submission of additional supporting documentation or that the extent or number of changes requested require the sponsor to complete a new application for approval.
- (3) The department may request a sponsor to provide any additional supporting documentation that is necessary for the department to approve the course.

**R 339.23309 Sponsors; duties; instructors.**

Rule 309. (1) Each sponsor shall be responsible for all of the following:

- (a) Compliance with all laws and rules relating to appraiser education.
  - (b) Providing students with current and accurate information.
  - (c) Maintaining an atmosphere that is conducive to learning in the classroom.
  - (d) Assuring and certifying the attendance of students who are enrolled in courses.
  - (e) Providing assistance to students and responding to questions relating to course materials.
  - (f) Supervising all guest lecturers and relating all information that is presented to the practice of REAL ESTATE appraisal.
- (2) DISTANCE EDUCATION SPONSORS SHALL ENSURE THAT ALL OF THE FOLLOWING QUALIFICATIONS FOR THEIR COURSES ARE COMPLIED WITH:
- (A) THE COURSE SHALL BE PRESENTED TO AN ORGANIZED GROUP IN AN INSTRUCTIONAL SETTING WITH A PERSON QUALIFIED AND AVAILABLE TO ANSWER QUESTIONS, PROVIDE INFORMATION, AND MONITOR STUDENT ATTENDANCE.
  - (B) THE COURSE MEETS 1 OF THE FOLLOWING CRITERIA:
    - (I) THE COURSE HAS BEEN PRESENTED BY A COLLEGE OR UNIVERSITY (APPROVED BY AN ACCREDITED COMMISSION ON COLLEGES OR A REGIONAL ACCREDITATION ASSOCIATION) THAT OFFERS DISTANCE EDUCATION PROGRAMS IN OTHER DISCIPLINES.
    - (II) THE COURSE HAS RECEIVED APPROVAL FOR COLLEGE CREDIT FROM THE AMERICAN COUNCIL ON EDUCATION'S PROGRAM ON NON-COLLEGIATE SPONSORED INSTRUCTION (ACE/PONSI).
    - (III) THE COURSE IS APPROVED BY THE APPRAISER QUALIFICATION BOARD THROUGH THE AQB COURSE APPROVAL PROGRAM, OR IS CONSIDERED EQUIVALENT BY THE AQB.
  - (C) THE COURSE MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(I) THE COURSE IS EQUIVALENT TO A MINIMUM OF 2 CLASSROOM HOURS.

(II) A STUDENT SUCCESSFULLY COMPLETES A WRITTEN EXAMINATION PROCTORED BY AN OFFICIAL APPROVED BY THE PRESENTING COLLEGE OR UNIVERSITY OR BY THE SPONSORING ORGANIZATION CONSISTENT WITH THE REQUIREMENTS OF THE COURSE ACCREDITATION; OR, IF A WRITTEN EXAMINATION IS NOT REQUIRED FOR ACCREDITATION, A STUDENT SUCCESSFULLY COMPLETES COURSE MECHANISMS REQUIRED FOR ACCREDITATION WHICH DEMONSTRATE MASTERY AND FLUENCY.

(III) THE SPONSOR ENSURES THAT STUDENTS COMPLETING DISTANCE EDUCATION COURSES WILL ACHIEVE THE EQUIVALENT OF THE STATED CLASSROOM HOURS PER COURSE.

(3) ~~(2)~~ A sponsor shall select as instructors only individuals who can demonstrate mastery of the material being taught and who possess 1 ~~one~~ of the following QUALIFICATIONS ~~types of experience~~:

~~(a) Experience as a faculty member of an institution of higher education that is authorized to grant degrees.~~

~~(b) Experience as~~ A STATE LICENSED, CERTIFIED RESIDENTIAL OR CERTIFIED GENERAL ~~an appraiser or assessor~~ WITH 3 YEARS OF APPRAISAL EXPERIENCE.

(c) Other experience acceptable to the sponsor FOR COURSES OTHER THAN PRELICENSURE COURSES.

(D) INSTRUCTORS OF THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP) SHALL HAVE COMPLIED WITH THE AQB INSTRUCTOR CERTIFICATION PROGRAM AS REQUIRED BY THE REAL PROPERTY APPRAISER QUALIFICATION CRITERIA, EFFECTIVE JANUARY 1, 2003. THIS REQUIREMENT WILL BE EFFECTIVE IN THIS STATE ON JANUARY 1, 2003 OR ON THE EFFECTIVE DATE OF THESE RULES, WHICHEVER IS LATER.

**R 339.23311 Courses ~~that are not acceptable for prelicensure or continuing education.~~**

Rule 311. The department shall not approve a prelicensure or continuing education course, nor shall it grant credit to a licensee under section 2627(5) of the act for any of the following:

~~Courses that are presented solely by videotape, audiotape, radio, television, newspaper, or newsletter without interaction with an instructor who is present during the course.~~  
COURSES THAT DO NOT PROVIDE STUDENT ACCESS TO AN INSTRUCTOR DURING THE COURSE.

~~(b) Correspondence—courses~~ FOR PRELICENSURE EDUCATION, DISTANCE EDUCATION COURSES PROVIDED VIA THE INTERNET.

~~(c) Courses that deal with such employment-related topics as explanations of rights, benefits, and responsibilities; organizational structure; and on-the-job methods, processes, or procedures.~~

(d) Membership in or service in an office, or on a committee, of a professional, occupational, trade, or industry society or organization.

(e) Conferences, delegate assemblies, or similar meetings of professional organizations for policy-making purposes.

(f) Meetings and conventions of societies and associations; however, educational activities which are provided independently by an approved course sponsor and which are held concurrently with such meetings may be given credit.

(g) Attendance at lecture series, cultural performances, entertainment, or recreational meetings or activities or participation in travel groups, unless these activities are an integral part of a course that is approved pursuant to these rules.

(h) On-the-job training, apprenticeships, and other work experiences.

~~(i) The independent writing of articles or research reports or the presentation of papers outside an approved course; however, authoring or editing a textbook that emphasizes appraisal topics may be approved.~~

~~(j) Individual, self-directed studies or other forms of independent learning experience.~~

(I)~~(k)~~ Courses in sales promotion, motivation, marketing, psychology, time management, or mechanical office or business skills, including typing, speed-reading, or the use of office machines or equipment other than financial calculators or computers.

## PRELICENSURE EDUCATION

### **R 339.23317 Prelicensure education; application for course approval; forms; requirements, UNACCEPTABLE COURSES.**

Rule 317. (1) An application for approval of a prelicensure real estate appraiser education course shall be made on forms provided by the department. The department shall accept or reject an application within 60 days of receipt of the completed application.

(2) The application shall include all of the following information:

(a) The course title.

(b) The number of ~~clock-hours~~ CLASSROOM HOURS to be given for completion of the course. As provided in section 2617(3) of the act, a course shall be not less than 15 ~~clock~~ CLASSROOM hours in length.

(c) The name, business address, and telephone number of the sponsor.

(d) The name, business address, and telephone number of the course coordinator.

(e) The name, license number, and qualifications of instructors.

(f) A detailed outline, as it will appear in the student syllabus, of the subject matter to be covered and the number of ~~clock-hours~~ CLASSROOM HOURS to be devoted to each topic.

(G) A SUMMARY OF THE REQUIRED TOPICS FOR PRELICENSURE THAT ARE COVERED IN THE COURSE.

~~(g)~~ (H) A list of textbooks and reference materials.

~~(h)~~ (I) The methodology for verifying and monitoring attendance, including the class makeup policy. A sponsor shall have a written makeup policy for students who are absent from all or a part of regularly scheduled class sessions. If there are no opportunities to make up missed sessions, that policy shall be so stated.

~~(i)~~ (J) The standards a student must meet to complete the course, including assignments, projects, examinations, and the passing score on the examination that is required pursuant to the provisions of section 2617(3) of the act to be given at the completion of the course for a student to demonstrate mastery of the material covered.

~~(j)~~ (K) A sample of any advertising material, announcements, or brochures to be used to promote the course.

(k)(L) Proof that the sponsor is an entity that may offer prelicensure real estate appraisal education courses in accordance with the provisions of section 2617(2) of the act.

(3) DISTANCE EDUCATION COURSES PROVIDED VIA THE INTERNET ARE UNACCEPTABLE FOR PRELICENSURE EDUCATION.

**R 339.23319 Prelicensure education; student records; permanent record; course completion certificate.**

Rule 319. (1) A course sponsor shall establish and permanently maintain a record for each student. The record shall contain all of the following information:

- (a) The student's name and address.
- (b) The number of ~~clock-hours~~ CLASSROOM HOURS attended.
- (c) The title of the course and the date of course completion.
- (d) The student's grade.

(2) A course sponsor shall issue a certificate of completion to a licensee who receives a passing grade in a prelicensure education course. The certificate shall include all of the following information:

- (a) The name of the student.
- (b) The name of the sponsor.
- (c) The name of the course attended.
- (d) The number of ~~clock-hours~~ CLASSROOM HOURS completed by the student.
- (e) The date of course completion.
- (f) The signature of the course coordinator or instructor.

**CONTINUING EDUCATION**

**R 339.23321 Continuing education; application for course approval; forms; requirements.**

Rule 321. (1) An application for approval of a continuing education course shall be made on forms provided by the department. The department shall accept or reject the application within 60 days after receipt of the completed application.

(2) The application shall include all of the following information:

- (a) The course title.
- (b) The number of ~~clock-hours~~ CLASSROOM HOURS to be given for completion of the course. As provided in section 2617 of the act, a course shall be not less than 2 ~~clock-hours~~ CLASSROOM HOURS in length.
- (c) The name, business address, and telephone number of the sponsor.
- (d) The name, business address, and telephone number of the course coordinator.
- (e) The name, license number, and qualifications of instructors.
- (f) A detailed outline, as it will appear in the student syllabus, of the subject matter to be covered and the estimated time to be devoted to each topic.
- (g) A list of textbooks and reference materials.
- (h) The methodology for verifying and monitoring attendance. The course sponsor shall be responsible for determining the number of hours, if any, that will be granted to a licensee who does not attend all planned classroom hours. A licensee shall not receive credit for attending the same course more than 1 time during the same license renewal cycle.

- (i) The standards a student must meet to complete the course, including assignments, projects, or examinations. The sponsor at its discretion may give course examinations, but examinations are not required by the act or these rules for continuing education courses.
- (j) A sample of any advertising material, announcements, or brochures to be used to promote the course.
- (k) Proof that the sponsor is an entity that may offer continuing education courses in accordance with the provisions of section 2617(2) of the act.
- (l) Information to demonstrate that the course meets the requirements of section 2627(3) and (4) of the act and is designed to improve and maintain the capability of a licensee to perform activities regulated by the act.

**R 339.23323 Continuing education; student records; permanent record; course completion certificate.**

Rule 323. (1) A course sponsor shall establish and permanently maintain a record for each student. The record shall contain all of the following INFORMATION:

- (a) The student's name, address, and license number.
  - (b) The number of ~~clock hours~~ CLASSROOM HOURS attended.
  - (c) The title of the course and the date of course completion.
- (2) A course sponsor shall issue a certificate of completion to a licensee who successfully completes a continuing education course. The certificate shall include all of the following information:
- (a) The name of the student.
  - (b) The student's license number.
  - (c) The name of the sponsor.
  - (d) The name of the course attended.
  - (e) The number of ~~clock hours~~ CLASSROOM HOURS completed by the student.
  - (f) The date of course completion.
  - (g) The signature of the course coordinator or instructor.
- (3) Within 15 business days after a course ends, a sponsor shall certify to the department the names of students who complete an approved course by a method or on forms approved by the department.

**R 339.23326 CONTINUING EDUCATION REQUIREMENTS FOR LICENSEES.**

RULE 326. AS PART OF THE CONTINUING EDUCATION REQUIREMENTS DEFINED IN SECTION 2627 OF THE ACT, EVERY 2 YEARS EACH LICENSEE SHALL COMPLETE A 2-HOUR COURSE ON MICHIGAN APPRAISER LICENSING LAW AND RULES, OR A COURSE OR SEMINAR WHICH CONTAINS A MINIMUM OF 2 HOURS DEVOTED TO MICHIGAN APPRAISER LICENSING LAW AND RULES AND A 7-HOUR COURSE ADDRESSING CURRENT USPAP STANDARDS.

**PART 4. STANDARDS OF CONDUCT**

**R 339.23401 Licensee relationship to others participating in preparation of appraisals.**

Rule 401. A ~~stateXlicensed~~ STATE LICENSED or ~~state-certified~~ RESIDENTIAL OR CERTIFIED GENERAL real estate appraiser shall not sign an appraisal report for a federally related transaction unless that licensee has personally inspected the INTERIOR AND EXTERIOR OF THE subject property, THE EXTERIOR OF THE COMPARABLES FROM THE STREET, and assumed full responsibility for the content and conclusions of the report. The material participation of any other individual in preparing the report shall be shown in the report as required by the uniform standards of professional appraisal practice cited in the act, regardless of the licensure status of the other individual. The signature of a ~~state-certified~~ RESIDENTIAL, CERTIFIED GENERAL or ~~stateXlicensed~~ STATE LICENSED appraiser as a review appraiser shall not be used to mask the preparation of a report by an individual who is not authorized to sign the report.

**R 339.23403 Real estate valuation specialist; LIMITED REAL ESTATE APPRAISER; ~~stateXlicensed~~ STATE LICENSED real estate appraiser; CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER authorized functions.**

Rule 403. (1) If a real estate valuation specialist OR LIMITED REAL ESTATE APPRAISER is properly qualified to undertake an assignment, a real estate valuation specialist OR LIMITED REAL ESTATE APPRAISER may perform either of the following appraisal services IF THE REPORT IS SIGNED BY A SUPERVISORY STATE LICENSED, CERTIFIED RESIDENTIAL OR CERTIFIED GENERAL REAL ESTATE APPRAISER, AS SPECIFIED IN SECTION 2607(7) OF THE ACT, WHO, BY VIRTUE OF SIGNING THE REPORT, ASSUMES FULL RESPONSIBILITY FOR THE ACCURACY OF THE REPORT CONTENT AND CONCLUSIONS:

(a) Appraise properties that are not federally related transactions OR REAL ESTATE RELATED FINANCIAL TRANSACTIONS. ~~for either of the following reasons:~~

(i) The transaction is not a federally related transaction as defined in federal regulations cited in section 2601(d) of the act.

~~(ii) The transaction amount is below a de minimus level which is established in federal regulations cited in section 2601(d) of the act as a level at or above which a transaction requires the use of a stateXlicensed or state-certified real estate appraiser.~~

(b) Assist a ~~stateXlicensed~~ STATE LICENSED, CERTIFIED RESIDENTIAL, or ~~state-certified~~ GENERAL real estate appraiser in the development of an appraisal for a federally related transaction OR A REAL ESTATE RELATED FINANCIAL TRANSACTION. The real estate valuation specialist OR LIMITED REAL ESTATE APPRAISER shall not sign the report; however, the ~~stateXlicensed~~, STATE LICENSED, CERTIFIED RESIDENTIAL or ~~state-certified~~ GENERAL real estate appraiser shall acknowledge the specific contributions of the real estate valuation specialist OR LIMITED REAL ESTATE APPRAISER within the appraisal report.

(2) If a ~~stateXlicensed~~ STATE LICENSED real estate appraiser is properly qualified to undertake an assignment, a ~~stateXlicensed~~ STATE LICENSED real estate appraiser may perform any of the following appraisal services:



(a) APPRAISE PROPERTIES THAT ARE NOT FEDERALLY RELATED TRANSACTIONS.

(b) Appraise 1 to 4-family residential properties, unless the transaction value is \$1,000,000.00 or more or the property is deemed to be complex and, therefore, required to be appraised by a state-certified RESIDENTIAL OR CERTIFIED GENERAL real estate appraiser.

~~(b) Appraise properties that are not federally related transactions. for either of the following reasons:~~

(i) The transaction is not a federally related transaction as defined in federal regulations cited in section 2601(d) of the act.

~~(ii) The transaction amount is below a de minimus level which is established in federal regulations cited in section 2601(d) of the act as a level at or above which a transaction requires the use of a state-certified real estate appraiser.~~

(c) APPRAISE NON-RESIDENTIAL PROPERTIES FOR FEDERALLY RELATED TRANSACTIONS AND REAL ESTATE RELATED FINANCIAL TRANSACTIONS WHERE THE TRANSACTION VALUE IS LESS THAN \$250,000.00.

(d) Assist a state-certified RESIDENTIAL OR CERTIFIED GENERAL real estate appraiser in the development of an appraisal of a complex residential property or a nonresidential property that is the subject of a federally related transaction, AS APPROPRIATE. The ~~state~~licensed STATE LICENSED real estate appraiser shall not sign the report; however, the state-certified RESIDENTIAL OR CERTIFIED GENERAL real estate appraiser shall acknowledge the specific contributions of the ~~state~~licensed STATE LICENSED real estate appraiser within the appraisal report.

(3) A CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER, IF PROPERLY QUALIFIED TO UNDERTAKE AN ASSIGNMENT, MAY PERFORM ANY OF THE FOLLOWING APPRAISAL ASSIGNMENTS:

(A) APPRAISE PROPERTIES THAT ARE NOT FEDERALLY RELATED TRANSACTIONS.

APPRAISE 1 TO 4-FAMILY RESIDENTIAL PROPERTIES, WITHOUT REGARD TO COMPLEXITY OR VALUE.

(C) APPRAISE NON-RESIDENTIAL PROPERTIES FOR FEDERALLY RELATED TRANSACTIONS AND REAL ESTATE RELATED FINANCIAL TRANSACTIONS WHERE THE TRANSACTION VALUE IS LESS THAN \$250,000.00.

(D) ASSIST A CERTIFIED GENERAL REAL ESTATE APPRAISER IN THE DEVELOPMENT OF AN APPRAISAL OF A NONRESIDENTIAL PROPERTY THAT IS THE SUBJECT OF A FEDERALLY RELATED TRANSACTION, AS APPROPRIATE.

THE CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER SHALL NOT SIGN THE REPORT. HOWEVER, THE CERTIFIED GENERAL REAL ESTATE APPRAISER SHALL IDENTIFY THE SPECIFIC CONTRIBUTIONS OF THE CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER WITHIN THE APPRAISAL REPORT.

(4) SIGNATURES ARE REQUIRED ON APPRAISAL REPORTS ACCORDING TO THE FOLLOWING CHART. THE LICENSEE AUTHORIZED TO SIGN THE REPORT SHALL IDENTIFY ALL PARTICIPATING LICENSEES AND THEIR CONTRIBUTIONS TO THE REPORT.

## 2001 MR 20

SIGNATURES REQUIRED : BY LICENSE LEVEL AND TRANSACTION CATEGORIES	NON- FEDERALLY RELATED TRANSACTION S & NON- REAL ESTATE- RELATED FINANCIAL TRANSACTION S	FEDERALLY RELATED TRANSACTION S 1-4 FAMILY PROPERTIES LESS THAN \$1 MILLION IN VALUE	FEDERALLY RELATED TRANSACTION S 1-4 FAMILY PROPERTIES MORE THAN \$1 MILLION OR COMPLEX PROPERTIES MORE THAN \$250,000 IN VALUE	FEDERALLY RELATED TRANSACTION S NON- RESIDENTIAL PROPERTIES LESS THAN \$250,000 IN VALUE	FEDERALLY RELATED TRANSACTION S NON- RESIDENTIAL MORE THAN \$250,000 IN VALUE
LIMITED APPRAISER	YES	NO	NO	NO	NO
STATE LICENSED APPRAISER	YES	YES	NO	YES	NO
CERTIFIED RESIDENTIAL APPRAISER	YES	YES	YES	YES	NO
CERTIFIED GENERAL APPRAISER	YES	YES	YES	YES	YES

### **R 339.23405 Advertising.**

Rule 405. (1) A licensee shall state the level of license held in all advertising. Merely stating that the person is licensed does not satisfy the provisions of this subrule. However, in a directory listing or similar situation where space is limited, it shall be sufficient disclosure for a licensee to use the words ~~state-certified~~ GENERAL, CERTIFIED RESIDENTIAL, ~~state-licensed~~ STATE LICENSED, LIMITED APPRAISER, or valuation specialist, as appropriate, without additional wording.

(2) A licensee shall place his or her license number AND LICENSE LEVEL on all reports and shall produce evidence of licensing upon request by a member of the public or a representative of the department. A license number shall not be required in advertising material.

---

NOTICE OF PUBLIC HEARING

---

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**BUREAU OF COMMERCIAL SERVICES**

**REAL ESTATE APPRAISER RULES (#2000-034)**

**ORR # 2000-034**

December 4, 2001  
2501 Woodlake Circle Okemos Michigan  
Conference Room 1 2<sup>nd</sup> floor 10:00 a.m.

The Department of Consumer and Industry Services will hold a public hearing on Tuesday December 4, 2001 at the Bureau of Commercial Services, 2501 Woodlake Circle, Okemos Michigan in Conference Room 1 at 10:00 a.m. The hearing will be held to receive public comments on proposed changes to the Administrative Rules for Real Estate Appraisers.

New categories of appraiser licenses were established by amendments to the Occupational Code by 1999 PA 170 to bring Michigan into compliance with the federal regulations for appraisers which affect all states. The new categories of state licensed, certified general, certified residential, and limited appraiser licenses require changes to education, experience, continuing education, supervision and compliance with national Appraiser Qualification Board standards. A key item in the proposed rules is the establishment of approval procedures for sponsors of continuing education programs to offer courses through distance learning technology. Comments on the rules may be made in person at the hearing or by mail, FAX, or Electronic-mail until December 31, 2001.

The rules [Rule Set 20-034 CI] are published on the Michigan Government web site at <http://www.michigan.gov/orr> and in the *Michigan Register* in the November 15, 2001 issue. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Department of Consumer and Industry Services  
Nancy Dixon, Bureau of Commercial Services  
P. O. Box 30018  
Lansing MI 48909-7518  
Phone: 517/241-9219 FAX: 517/ 241-7539  
E-mail: [nancy.dixon@cis.state.mi.us](mailto:nancy.dixon@cis.state.mi.us)

The public hearing will be conducted in compliance with the 1990 Americans With Disabilities Act, in an accessible building with handicap parking available. Anyone needing assistance to take part in the hearing can call 517/241-9219 to make arrangements.

---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR QUALITY DIVISION**

**AIR POLLUTION CONTROL**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of environmental quality by sections 5503 and 5512 of 1994 PA 451 and Executive Reorganization Order No. 1995-18, MCL 324.5503, 324.5512, and 324.99903)

R 336.1801 of the Michigan Administrative Code is amended and R 336.1802 to R 336.1818 are added to read as follows:

**PART 8. EMISSION LIMITATIONS AND PROHIBITIONS--OXIDES OF NITROGEN**

**R 336.1801 Emission of oxides of nitrogen from NON-SIP CALL stationary sources.**

Rule 801. (1) As used in this rule:

(a) "CAPACITY FACTOR" MEANS EITHER OF THE FOLLOWING:

(i) THE RATIO OF A UNIT'S ACTUAL ANNUAL ELECTRIC OUTPUT, EXPRESSED IN MEGAWATT HOUR, TO THE UNIT'S NAMEPLATE CAPACITY TIMES 8,760 HOURS.

(ii) THE RATIO OF A UNIT'S ANNUAL HEAT INPUT, EXPRESSED IN MILLION BRITISH THERMAL UNITS OR EQUIVALENT UNITS OF MEASURE, TO THE UNIT'S MAXIMUM DESIGN HEAT INPUT, EXPRESSED IN MILLION BRITISH THERMAL UNITS PER HOUR OR EQUIVALENT UNITS OF MEASURE, TIMES 8,760 HOURS.

(b) "Fossil fuel-fired" means the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel actually combusted comprises more than 50% of the FUEL MASS OR annual heat input on a British thermal unit basis. COKE OVEN GAS IS A FOSSIL FUEL.

(c) "LOW-NO<sub>x</sub> BURNERS" MEANS 1 OF SEVERAL DEVELOPING COMBUSTION TECHNOLOGIES USED TO MINIMIZE THE FORMATION OF EMISSIONS OF NITROGEN OXIDES. AS APPLICABLE TO CEMENT KILNS, LOW- NO<sub>x</sub> BURNERS MEANS A TYPE OF CEMENT KILN BURNER SYSTEM DESIGNED TO MINIMIZE

NO<sub>x</sub> FORMATION BY CONTROLLING FLAME TURBULENCE, DELAYING FUEL/AIR MIXING, AND ESTABLISHING FUEL-RICH ZONES FOR INITIAL COMBUSTING, THAT FOR FIRING OF SOLID FUEL IN THE BURNING END ZONE OF A KILN'S MAIN BURNER INCLUDES AN INDIRECT FIRING SYSTEM OR COMPARABLE TECHNIQUE FOR THE MAIN BURNER IN THE BURNING END ZONE OF THE KILN TO MINIMIZE THE AMOUNT OF PRIMARY AIR SUPPLIED THROUGH THE BURNER. IN AN INDIRECT FIRING SYSTEM, 1 AIR STREAM IS USED TO CONVEY PULVERIZED FUEL FROM THE GRINDING EQUIPMENT AND AT LEAST 1 OR MORE OTHER AIR STREAMS ARE USED TO SUPPLY PRIMARY AIR TO THE BURNING END ZONE KILN BURNER OF THE KILN WITH THE PULVERIZED FUEL, WITH INTERMEDIATE STORAGE OF THE FUEL, AND NECESSARY SAFETY AND EXPLOSION PREVENTION SYSTEMS ASSOCIATED WITH THE INTERMEDIATE STORAGE OF FUEL.

(d) "MID-KILN SYSTEM FIRING" MEANS THE SECONDARY FIRING IN A KILN SYSTEM BY INJECTING SOLID FUEL AT AN INTERMEDIATE POINT IN THE KILN SYSTEM USING A SPECIALLY DESIGNED HEAT INJECTION MECHANISM FOR THE PURPOSE OF DECREASING NO<sub>x</sub> EMISSIONS THROUGH COAL BURNING PART OF THE FUEL AT LOWER TEMPERATURES AND REDUCING CONDITIONS AT THE FUEL INJECTION POINT THAT MAY DESTROY SOME OF THE NO<sub>x</sub>.

(e) "NON-SIP CALL SOURCE" MEANS ANY STATIONARY SOURCE OF OXIDES OF NITROGEN EMISSIONS THAT IS NOT DEFINED AS AN OXIDES OF NITROGEN BUDGET SOURCE IN R 336.1303.

(f) "Ozone CONTROL PERIOD" means the PERIOD OF MAY 31, 2004, THROUGH SEPTEMBER 30, 2004, AND THE PERIOD OF MAY 1 THROUGH SEPTEMBER 30 EACH SUBSEQUENT YEAR.

(g) "PEAKING UNIT" MEANS A UNIT THAT HAS AN AVERAGE CAPACITY FACTOR OF NOT MORE THAN 10% DURING THE PREVIOUS 3 CALENDAR YEARS AND A CAPACITY FACTOR OF NOT MORE THAN 20% IN EACH OF THOSE CALENDAR YEARS.

(h) "Process heater" means any combustion equipment which is fired by a liquid fuel or a gaseous fuel, or both, and which is used to transfer heat from the combustion gases to a process fluid, superheated steam, or water.

(i) "Unit" means a fossil fuel-fired combustion device.

(j) "Utility system" means all interconnected units and generators WHICH ARE SUBJECT TO SUBRULE (2) OF THIS RULE AND WHICH ARE operated by the same utility operating company or by common ownership and control.

(2) An owner or operator of a fossil fuel-fired, electricity-generating utility unit which has the potential to emit more than 25 tons each ozone CONTROL PERIOD of oxides of nitrogen and which serves a generator that has a nameplate capacity of 25 megawatts or more shall comply with the emission limits during the ozone CONTROL PERIOD as follows:

(a) By MAY 31, 2004, meet the least stringent of a utility system-wide average oxides of nitrogen emission rate of 0.25 pounds per million British thermal units heat input or an emission rate based on a 65% reduction of oxides of nitrogen from 1990 levels.

(b) The DATE listed in SUBDIVISION (a) of this subrule may be extended by up to 1 year if an owner or operator makes an acceptable demonstration to the department that the additional time is necessary to avoid disruption of the energy supply in the state or if the additional time is necessary to comply with the provisions of this rule.

(3) An owner or operator shall demonstrate compliance with the emission limits in subrule (2) of this rule as follows:

(a) To demonstrate compliance with a utility system-wide average emission rate, the owner or operator shall show that the sum of the mass emissions from all units owned or operated by a utility that is subject to subrule (2) of this rule which occurred during the ozone CONTROL PERIOD, divided by the sum of the heat input from all units owned or operated by a utility that is subject to subrule (2) of this rule which occurred during the ozone CONTROL PERIOD is less than or equal to the limits in subrule (2) OF THIS RULE.

(b) To demonstrate compliance with the percent reduction requirements of subrule (2) of this rule, the owner or operator shall provide calculations showing that the utility system average emission rate during each compliance ozone CONTROL PERIOD has been reduced below the 1990 ozone CONTROL PERIOD average emission rate by the applicable percent reduction listed in subrule (2) of this rule. The 1990 ozone CONTROL PERIOD average emission rate is the sum of the mass emissions from all units owned or operated by a utility that is subject to subrule (2) of this rule which occurred during the 1990 ozone CONTROL PERIOD divided by the sum of the heat input from all units owned or operated by a utility that is subject to subrule (2) of this rule which occurred during the 1990 ozone CONTROL PERIOD.

(4) By -MAY 31, 2004, an owner or operator of a fossil fuel-fired emission unit which has the potential to emit more than 25 tons of oxides of nitrogen each ozone CONTROL PERIOD, except for an emission unit that is subject to subrule (2) of this rule, and which has a maximum rated heat input capacity of more than 250 million British thermal units per hour shall comply with the following provisions, as applicable:

(a) An owner or operator of a fossil fuel-fired, electricity-generating utility unit which serves a generator that has a nameplate capacity of less than 25 megawatts which has a maximum rated heat input capacity of more than 250 million British thermal units per hour shall comply with the appropriate oxides of nitrogen emission limit in table 81 of this rule.

(b) An owner or operator of a fossil fuel-fired boiler or process heater shall meet the emission limits contained in table 81 of this rule.

(c) An owner or operator of a gas-fired boiler or process heater that fires gaseous fuel which contains more than 50% hydrogen by volume shall comply with an oxides of nitrogen emission limit of 0.25 pounds per million Btu heat input.

(d) An owner or operator of a stationary internal combustion engine which is subject to the provisions of this rule and which has a maximum rated heat input capacity that is the heat input at 80 degrees Fahrenheit at sea level and takes into account inlet and exhaust losses shall comply with the following oxides of nitrogen emission limits, as applicable:

(i) For a natural gas-fired stationary internal combustion engine - 14 grams of oxides of nitrogen per brake horsepower hour at rated output.

(ii) For a diesel-fired stationary internal combustion engine - 10 grams of oxides of nitrogen per brake horsepower hour at rated output.

(e) An owner or operator of a cement kiln that is subject to the provisions of this rule shall reduce kiln oxides of nitrogen emissions by any of the following methods:

(i) Low oxides of nitrogen burners.

(ii) Mid-kiln SYSTEM firing.

(iii) A 25% rate-based reduction of oxides of nitrogen from 1995 levels. Compliance with this paragraph shall be based on calculations showing that the emission rate, on a pounds of oxides of nitrogen per ton of clinker produced basis, during each compliance ozone CONTROL PERIOD, has been reduced below the 1995 ozone CONTROL PERIOD emission rate by 25%.

(f) An owner or operator of a stationary gas turbine which is subject to the provisions of this rule and which has a maximum rated heat input capacity that is the heat input at 80 degrees Fahrenheit at sea level and takes into account inlet and exhaust losses shall comply with an emission limit of 75 parts per million, dry volume, corrected to 15% oxygen, at rated capacity. The provisions of this rule do not apply to a stationary gas turbine that is subject to a new source performance standard contained in 40 C.F.R. PART 60, subpart gg (2001), WHICH IS ADOPTED BY REFERENCE IN SUBRULE (7) OF THIS RULE.

(g) An owner or operator of an emission unit which is subject to this rule and which is not otherwise subject to the provisions of subdivisions (a) to (f) of this subrule shall submit a proposal for oxides of nitrogen control by NOVEMBER 17, 2000. An owner or operator shall implement the control program by MAY 31, 2004, or by an alternate date approved by the department. The owner or operator SHALL obtain department approval of the proposed control program. The proposal for oxides of nitrogen control shall include all of the following information:

(i) A listing of reasonably available oxides of nitrogen control technologies, including the costs of installation and operation, COST OF CONTROL PER TON OF OXIDES OF NITROGEN REDUCED, and the projected effectiveness of the proposed control technologies.

(ii) The technology selected for controlling oxides of nitrogen emissions from the emission unit, considering technological and economic feasibility.

(iii) A proposal for testing, monitoring, and reporting oxides of nitrogen emissions.

(h) The compliance date listed in this subrule may be extended by up to 1 year if an owner or operator makes an acceptable demonstration to the department that the additional time is necessary to comply with the provisions of this rule. THE OWNER OR OPERATOR OF A UNIT SUBJECT TO SUBRULES (2) AND 4(A) TO (F) OF THIS RULE MAY REQUEST AN ALTERNATE EMISSION LIMIT OR CONTROL REQUIREMENT IF THERE IS AN ACCEPTABLE DEMONSTRATION MADE TO THE DEPARTMENT THAT COMPLIANCE WITH THE LIMITS IN TABLE 81, OR OTHER LIMITS OR CONTROL REQUIREMENTS, IS NOT REASONABLE. THE REQUEST FOR AN ALTERNATE EMISSION LIMIT OR CONTROL REQUIREMENT SHALL BE SUBMITTED TO THE DEPARTMENT BY APRIL 1, 2002, AND SHALL INCLUDE ALL OF THE INFORMATION LISTED IN SUBDIVISION (G)(I) TO (III) OF THIS SUBRULE.

(5) The method for determining compliance with the emission limits in subrule (4) of this rule is as follows:

(a) If the emission limit is in the form of pounds of oxides of nitrogen per million British thermal unit, then the unit is in compliance if the sum of the mass emissions from the unit



that occurred during the ozone CONTROL PERIOD, divided by the sum of the heat input from the unit that occurred during the ozone CONTROL PERIOD, is less than or equal to the limit in subrule (4) of this rule.

(b) For an emission unit not subject to subdivision (a) of this subrule, the method for determining compliance shall be a method acceptable to the department.

(6) An owner or operator of a source of oxides of nitrogen that is subject to the provisions of this rule may participate in Michigan's emission trading program, being R 336. 2201 to R 336.2218.

(7) The owner or operator of an emission unit subject to subrule (2) of this rule shall measure oxides of nitrogen emissions with a continuous emission monitoring system; an alternate method as described in 40 C.F.R. PARTS 60 or 75 AND ACCEPTABLE TO THE DEPARTMENT; or a method currently in use and acceptable to the department, including methods contained in existing permit conditions. The provisions of 40 C.F.R. PARTS 60 and 75 (2001) are adopted by reference in these rules. Copies of the regulations may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of the regulations may be obtained from the Department of Environmental Quality, Air Quality Division, 106 West Allegan STREET, P.O. Box 30260, Lansing, Michigan 48909-7760, or from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost at the time of adoption of these rules of \$66.00 FOR PART 60 AND \$47.00 FOR PART 75; OR ON THE UNITED STATES GOVERNMENT PRINTING OFFICE INTERNET WEB SITE AT WWW.ACCESS.GPO.GOV.

(8) The owner or operator of a boiler, process heater, stationary internal combustion engine, stationary gas turbine, cement kiln, or any other stationary emission unit that is subject to the provisions of subrule (4) of this rule shall measure oxides of nitrogen emissions by any of the following:

(a) Performance tests described in subrule (9) of this rule.

(b) Through the use of a continuous emission monitor in accordance with the provisions of subrule (11) of this rule.

(c) According to a schedule and using a method acceptable to the department.

(9) An owner or operator of an emission unit that measures oxides of nitrogen emissions by performance tests as specified in subrule (8) of this rule shall do all of the following:

(a) During the ozone CONTROL PERIOD, conduct an initial performance test not later than 180 days after the compliance deadline. For an emission unit that is not in service on or after the compliance deadline, the owner or operator shall conduct an initial performance test during the next ozone CONTROL PERIOD in which the emission unit is operating.

(b) After the initial performance test, conduct a compliance performance test each ozone CONTROL PERIOD or according to the following schedule:

(i) After 2 consecutive ozone CONTROL PERIODS in which the emission unit demonstrates compliance, an owner or operator shall conduct performance tests at least once every 2 years during the ozone CONTROL PERIOD.

(ii) After a total of 4 consecutive ozone CONTROL PERIODS in which the emission unit has remained in compliance, an owner or operator shall conduct performance tests at least once every 5 years during the ozone CONTROL PERIOD.

(c) If an emission unit is NOT in compliance at the end of an ozone CONTROL PERIOD, THEN the owner or operator shall conduct a compliance performance test each ozone CONTROL PERIOD, but can again elect to use the alternative schedule specified in SUBRULE 9(b) of this RULE.

(d) An owner or operator shall submit 2 COPIES of each compliance performance test to the department within 60 days OF COMPLETION OF THE TESTING. THE TEST RESULTS SHALL BE PRESENTED AND INCLUDE DATA AS REQUESTED IN THE DEPARTMENT FORMAT FOR SUBMITTAL OF SOURCE EMISSION TEST PLANS AND REPORTS. ALL PERFORMANCE TEST REPORTS SHALL BE KEPT ON FILE AT THE PLANT AND MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

(10) An owner or operator of an emission unit who is required to conduct performance testing under subrule (8) of this rule shall submit A TEST PLAN to the department, not less than 30 days before THE SCHEDULED TEST DATE. TO ENSURE PROPER TESTING, THE PLAN SHALL SUPPLY THE INFORMATION IN THE DEPARTMENT FORMAT FOR SUBMITTAL OF SOURCE EMISSION TEST PLANS AND REPORTS. The owner or operator shall give the department a reasonable opportunity to witness the tests.

(11) An owner or operator of an emission unit that measures oxides of nitrogen emissions by a continuous emission monitoring system or an alternate method, as specified in subrule (7) or (8) of this rule, shall do either of the following:

(a) Use procedures set forth in 40 C.F.R., PART 60, SUBPART A AND APPENDIX B, AND COMPLY WITH THE QUALITY ASSURANCE PROCEDURES IN APPENDIX F, OR 40 C.F.R., PART 75, AND ASSOCIATED APPENDICES, AS APPLICABLE AND ACCEPTABLE TO THE DEPARTMENT. TITLE 40 C.F.R., PARTS 60 AND 75, ARE ADOPTED BY REFERENCE IN SUBRULE (7) OF THIS RULE.

(b) An owner or operator of an emission unit who uses a continuous emission monitoring system to demonstrate compliance with this rule and who has already installed a continuous emission monitoring system for oxides of nitrogen pursuant to other applicable federal, state, or local rules shall meet the installation, testing, operation, calibration, and reporting requirements specified by federal, state, or local rules.

(12) The owner or operator of an emission unit that is subject to this rule shall submit a summary report, in an acceptable format, to the department within 60 days after the end of each ozone CONTROL PERIOD. The report shall include all of the following information:

(a) The DATE, TIME, magnitude of emissions, and emission rates where applicable, of the specified emission unit or utility system.

(b) If emissions or emission rates exceed the emissions or rates allowed for in the ozone CONTROL PERIOD by the applicable emission limit, the cause, if known, and any corrective action taken.

(c) The total operating time of the emission unit during the ozone CONTROL PERIOD.

(d) For continuous emission monitoring systems, system performance information, including the date, time, duration, cause, and corrective action for monitor outages. If continuous emission monitoring system downtime did not occur during monitor outages, THEN documentation that downtime did not occur SHALL BE PROVIDED.

(13) Table 81 reads as follows:

Table 81

Boilers and process heaters with heat input capacity of 250 million Btu or more oxides of nitrogen (NO <sub>x</sub> ) emission limitations (pounds NO <sub>x</sub> per million Btu of heat input averaged over the ozone CONTROL PERIOD)	
Fuel type	Emission limit
Natural gas	0.20
Distillate oil	0.30
Residual oil	0.40
Coal	
(1) Coal spreader stoker	0.40
(2) Pulverized coal fired	0.40
Gas (other than natural gas) <sup>1</sup>	0.25
<p>For units operating with a combination of gas, oil, or coal, a variable emission limit calculated as the heat input weighted average of the applicable emission limits shall be used. The emission limit shall be determined as follows:</p> <p>Emission limit = a(0.20) + b(applicable oil limit) + c(applicable coal limit) + d(0.25)</p> <p>Where:</p> <p>a = Is the percentage of total heat input from natural gas</p> <p>b = Is the percentage of total heat input from oil</p> <p>c = Is the percentage of total heat input from coal</p> <p>d = Is the percentage of total heat input from gas (other than natural gas)</p>	

<sup>1</sup>This may include a mixture of gases. In this case, natural gas may be part of the mixture.

- (14) The provisions of this rule do not apply to THE FOLLOWING emission unit or units:
- (a) A UNIT THAT IS subject to oxides of nitrogen standards, which have been promulgated in a federal implementation plan under section 110(c) of the clean air act or required under section 126 of the clean air act.
  - (b) A UNIT THAT IS SUBJECT TO ANY OTHER RULE INCLUDED IN THIS PART.
  - (c) A PEAKING UNIT. THE OWNER OR OPERATOR SHALL RETAIN RECORDS OF CAPACITY FOR A PERIOD OF 5 YEARS DEMONSTRATING THAT THE UNIT MEETS THE DEFINITION OF A PEAKING UNIT. THE UNIT SHALL BECOME SUBJECT TO THE PROVISIONS OF THIS RULE ON JANUARY 1 OF THE YEAR FOLLOWING FAILURE TO MEET THE PEAKING UNIT DEFINITION.

**R 336.1802 APPLICABILITY UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 802. (1) THIS RULE ESTABLISHES AN OXIDES OF NITROGEN EMISSIONS BUDGET AND OXIDES OF NITROGEN TRADING PROGRAM FOR ELECTRICITY-GENERATING UNITS AND LARGE AFFECTED UNITS AS DESCRIBED IN THESE RULES. THE FOLLOWING UNITS IN THE MICHIGAN FINE GRID ZONE SHALL BE OXIDES OF NITROGEN BUDGET UNITS, AND ANY SOURCE THAT INCLUDES 1 OR MORE UNITS SHALL BE AN OXIDES OF NITROGEN BUDGET SOURCE AND SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS RULE:

(a) AN ELECTRICITY-GENERATING UNIT AS DEFINED IN R 336.1803 .

(b) A LARGE AFFECTED UNIT AS DEFINED IN R 336.1803.

(2) A UNIT DESCRIBED IN SUBRULE (1) OF THIS RULE SHALL NOT BE AN OXIDES OF NITROGEN BUDGET UNIT, IF THE UNIT HAS A FEDERALLY ENFORCEABLE PERMIT THAT MEETS THE REQUIREMENTS OF SUBDIVISIONS (A) THROUGH (C) OF THIS SUBRULE:

(a) THE FEDERALLY ENFORCEABLE PERMIT INCLUDES TERMS AND CONDITIONS THAT RESTRICT THE UNIT TO BURNING ONLY NATURAL GAS OR FUEL OIL DURING THE OZONE CONTROL PERIOD IN 2004 OR THE FIRST YEAR OF OPERATION FOR THE SOURCE AND EACH OZONE CONTROL PERIOD THEREAFTER.

(b) THE FEDERALLY ENFORCEABLE PERMIT INCLUDES TERMS AND CONDITIONS THAT RESTRICT THE UNIT'S OPERATING HOURS DURING EACH OZONE CONTROL PERIOD TO THE NUMBER OF HOURS, DETERMINED IN ACCORDANCE WITH SUBDIVISION (C)(II) AND (III), THAT LIMITS THE UNIT'S POTENTIAL OXIDES OF NITROGEN MASS EMISSIONS FOR THE OZONE CONTROL PERIOD TO 25 TONS OR LESS.

(c) FOR EACH OZONE CONTROL PERIOD, THE FEDERALLY ENFORCEABLE PERMIT SHALL DO ALL OF THE FOLLOWING:

(i) RESTRICT THE UNIT TO BURNING ONLY NATURAL GAS OR FUEL OIL DURING AN OZONE CONTROL PERIOD IN 2004 OR LATER AND EACH OZONE CONTROL PERIOD THEREAFTER.

(ii) RESTRICT 1 OF THE FOLLOWING:

(A) THE UNIT'S OPERATING HOURS TO THE NUMBER CALCULATED BY DIVIDING 25 TONS OF POTENTIAL OXIDES OF NITROGEN MASS EMISSIONS BY THE UNIT'S MAXIMUM POTENTIAL HOURLY OXIDES OF NITROGEN MASS EMISSIONS.

(B) THE AMOUNT OF FUEL THAT CAN BE USED BASED ON TOTAL HEAT INPUT BY DIVIDING 25 TONS BY THE OXIDES OF NITROGEN MASS EMISSION RATE DETERMINED IN PARAGRAPH (III)(A) OF THIS SUBDIVISION.

(C) THE MASS EMISSIONS TO 25 TONS OF OXIDES OF NITROGEN AS MEASURED BY A CERTIFIED CONTINUOUS EMISSION MONITORING SYSTEM.

(iii) REQUIRE THAT THE UNIT'S POTENTIAL OXIDES OF NITROGEN MASS EMISSIONS BE CALCULATED AS FOLLOWS:

(A) SELECT 1 OF THE FOLLOWING:

(1) THE DEFAULT OXIDES OF NITROGEN EMISSION RATE IN 40 C.F.R. §75.19, TABLE 2, THAT WOULD OTHERWISE BE APPLICABLE ASSUMING THAT THE UNIT BURNS ONLY THE TYPE OF FUEL; FOR EXAMPLE, ONLY NATURAL GAS OR ONLY FUEL OIL THAT HAS THE HIGHEST DEFAULT OXIDES OF NITROGEN EMISSION FACTOR OF ANY TYPE OF FUEL THAT THE UNIT IS ALLOWED TO BURN UNDER THE FUEL USE RESTRICTION IN PARAGRAPH (I) OF THIS SUBDIVISION. TITLE 40 C.F.R., PART 75, IS ADOPTED BY REFERENCE IN R 336.1801.

(2) THE OXIDES OF NITROGEN EMISSION RATE LIMIT ESTABLISHED BY A FEDERALLY ENFORCEABLE PERMIT.

(3) THE OXIDES OF NITROGEN EMISSION RATE MEASURED BY A CONTINUOUS EMISSION MONITOR.

(4) THE MAXIMUM OXIDES OF NITROGEN EMISSION RATE ESTABLISHED BY EMISSION TESTING USING A METHOD ACCEPTABLE TO THE DEPARTMENT.

(B) MULTIPLY THE OXIDES OF NITROGEN EMISSION RATE UNDER SUBPARAGRAPH (A) OF THIS PARAGRAPH BY THE UNIT'S MAXIMUM RATED HOURLY HEAT INPUT. THE OWNER OR OPERATOR OF THE UNIT MAY PETITION THE DEPARTMENT TO USE A LOWER VALUE FOR THE UNIT'S MAXIMUM RATED HOURLY HEAT INPUT THAN THE VALUE AS DEFINED IN 40 C.F.R. §96.2, WHICH IS ADOPTED BY REFERENCE IN R 336.1803. THE DEPARTMENT MAY APPROVE THE LOWER VALUE IF THE OWNER OR OPERATOR DEMONSTRATES THAT THE MAXIMUM HOURLY HEAT INPUT SPECIFIED BY THE MANUFACTURER OR THE HIGHEST OBSERVED HOURLY HEAT INPUT, OR BOTH, ARE NOT REPRESENTATIVE, AND THAT THE LOWER VALUE IS REPRESENTATIVE OF THE UNIT'S CURRENT CAPABILITIES BECAUSE MODIFICATIONS HAVE BEEN MADE TO THE UNIT LIMITING ITS CAPACITY PERMANENTLY.

(iv) REQUIRE THAT THE OWNER OR OPERATOR OF THE UNIT SHALL RETAIN RECORDS, ON SITE AT THE SOURCE THAT INCLUDES THE UNIT FOR A PERIOD OF 5 YEARS, DEMONSTRATING THAT THE OPERATING HOURS RESTRICTION, THE FUEL USE RESTRICTION, AND THE OTHER REQUIREMENTS OF THE PERMIT RELATED TO THESE RESTRICTIONS WERE MET.

(v) REQUIRE THAT THE OWNER OR OPERATOR OF THE UNIT SHALL REPORT THE UNIT'S HOURS OF OPERATION, HEAT INPUT, OR CONTINUOUS EMISSION MONITORING SYSTEMS MEASURED OXIDES OF NITROGEN EMISSIONS TO THE DEPARTMENT BY NOVEMBER 1 OF EACH YEAR FOR WHICH THE UNIT IS SUBJECT TO THE FEDERALLY ENFORCEABLE PERMIT. IF THE HOURS OF OPERATION ARE REQUIRED TO BE REPORTED, THE OWNER OR OPERATOR SHALL TREAT ANY PARTIAL HOUR OF OPERATION AS A WHOLE HOUR OF OPERATION. THE UNIT SHALL BE SUBJECT ONLY TO THE REQUIREMENTS OF THIS SUBRULE, THROUGHOUT THE EFFECTIVE PERIOD OF THE FEDERALLY ENFORCEABLE PERMIT UNDER SUBDIVISION (a) OF THIS SUBRULE.

(d) WITHIN 30 DAYS AFTER A FINAL DECISION, THE DEPARTMENT SHALL NOTIFY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, IN WRITING, WHEN EITHER OF THE FOLLOWING PROVISIONS APPLIES TO A UNIT UNDER SUBRULE (1) OF THIS RULE:

- (i) THE UNIT IS ISSUED A FEDERALLY ENFORCEABLE PERMIT UNDER SUBRULE (2) OF THIS RULE.
- (ii) ANY OF THE FOLLOWING PROVISIONS APPLY TO A UNIT'S FEDERALLY ENFORCEABLE PERMIT ISSUED BY THE DEPARTMENT UNDER SUBRULE (2) OF THIS RULE:
  - (A) THE PERMIT IS REVISED TO REMOVE ANY RESTRICTION.
  - (B) THE PERMIT INCLUDES ANY RESTRICTION THAT IS NO LONGER APPLICABLE.
  - (C) THE PERMIT DOES NOT COMPLY WITH ANY RESTRICTION.
- (e) A UNIT DESCRIBED UNDER THIS SUBRULE SHALL BE AN OXIDES OF NITROGEN BUDGET UNIT, SUBJECT TO THE REQUIREMENTS OF THIS RULE IF EITHER OF THE FOLLOWING OCCURS FOR ANY OZONE CONTROL PERIOD:
  - (i) THE FUEL USE RESTRICTION UNDER SUBDIVISION (C)(I) OF THIS SUBRULE OR THE OPERATING HOURS OR EMISSIONS RESTRICTION UNDER SUBDIVISION (C)(II) AND (III) OF THIS SUBRULE IS REMOVED FROM THE UNIT'S FEDERALLY ENFORCEABLE PERMIT OR OTHERWISE BECOMES NO LONGER APPLICABLE.
  - (ii) THE UNIT DOES NOT COMPLY WITH THE FUEL USE RESTRICTION UNDER SUBDIVISION (C)(I) OF THIS SUBRULE OR THE OPERATING HOURS OR EMISSIONS RESTRICTION UNDER SUBDIVISION (C)(II) AND (III) OF THIS SUBRULE. THE UNIT SHALL BE TREATED AS COMMENCING OPERATION AND, FOR A UNIT UNDER SUBRULE (1)(A) OF THIS RULE, COMMENCING COMMERCIAL OPERATION ON SEPTEMBER 30 OF THE OZONE CONTROL PERIOD FOR WHICH THE FUEL USE RESTRICTION OR THE OPERATING HOURS OR EMISSIONS RESTRICTION IS NO LONGER APPLICABLE OR DURING WHICH THE UNIT DOES NOT COMPLY WITH THE FUEL USE RESTRICTION OR THE OPERATING HOURS OR EMISSIONS RESTRICTION.
- (3) AN OXIDES OF NITROGEN BUDGET UNIT THAT IS SUBJECT TO A RULE PROMULGATED UNDER SECTION 126 OF THE CLEAN AIR ACT SHALL NOT BE SUBJECT TO THIS RULE UNTIL THE SECTION 126 REQUIREMENTS NO LONGER APPLY.

**R 336.1803 DEFINITIONS FOR OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 803. (1) THE PROVISIONS OF 40 C.F.R. §96.2 ARE ADOPTED BY REFERENCE IN THIS RULE. THE DEFINITIONS IN 40 C.F.R. §96.2 ARE APPLICABLE TO R 336.1802 THROUGH R336.1816. IN ADDITION, ALL OF THE FOLLOWING DEFINITIONS APPLY AS INDICATED:

- (a) "ELECTRICITY-GENERATING UNIT (EGU)" MEANS:
  - (i) FOR UNITS THAT COMMENCED OPERATION BEFORE JANUARY 1, 1997, A UNIT SERVING A GENERATOR DURING 1995 OR 1996 THAT HAD A NAMEPLATE CAPACITY OF MORE THAN 25 MEGAWATTS AND PRODUCED ELECTRICITY FOR SALE UNDER A FIRM CONTRACT TO THE ELECTRIC GRID.
  - (ii) FOR UNITS THAT COMMENCED OPERATION ON OR AFTER JANUARY 1, 1997, AND BEFORE JANUARY 1, 1999, A UNIT SERVING A GENERATOR DURING 1997

OR 1998 THAT HAD A NAMEPLATE CAPACITY OF MORE THAN 25 MEGAWATTS AND PRODUCED ELECTRICITY FOR SALE UNDER A FIRM CONTRACT TO THE ELECTRIC GRID.

(iii) FOR UNITS THAT COMMENCE OPERATION ON OR AFTER JANUARY 1, 1999, A UNIT SERVING A GENERATOR AT ANY TIME THAT HAS A NAMEPLATE CAPACITY OF MORE THAN 25 MEGAWATTS AND PRODUCES ELECTRICITY FOR SALE.

(b) "LARGE AFFECTED UNIT" MEANS:

(i) FOR UNITS THAT COMMENCED OPERATION BEFORE JANUARY 1, 1997, A UNIT THAT HAS A MAXIMUM DESIGN HEAT INPUT OF MORE THAN 250,000,000 BTU'S PER HOUR AND THAT DID NOT SERVE DURING 1995 OR 1996 A GENERATOR PRODUCING ELECTRICITY FOR SALE UNDER A FIRM CONTRACT TO THE ELECTRIC GRID.

(ii) FOR UNITS THAT COMMENCED OPERATION ON OR AFTER JANUARY 1, 1997, AND BEFORE JANUARY 1, 1999, A UNIT THAT HAS A MAXIMUM DESIGN HEAT INPUT OF MORE THAN 250,000,000 BTU'S PER HOUR AND THAT DID NOT SERVE DURING 1997 OR 1998 A GENERATOR PRODUCING ELECTRICITY FOR SALE UNDER A FIRM CONTRACT TO THE ELECTRIC GRID.

(iii) FOR UNITS THAT COMMENCE OPERATION ON OR AFTER JANUARY 1, 1999, A UNIT THAT HAS A MAXIMUM DESIGN HEAT INPUT OF MORE THAN 250,000,000 BTU'S PER HOUR AND TO WHICH EITHER OF THE FOLLOWING PROVISIONS APPLIES:

(A) THE UNIT AT NO TIME SERVES A GENERATOR PRODUCING ELECTRICITY FOR SALE.

(B) THE UNIT AT ANY TIME SERVES A GENERATOR PRODUCING ELECTRICITY FOR SALE, IF ANY SUCH GENERATOR HAS A NAMEPLATE CAPACITY OF 25 MEGAWATTS OR LESS AND HAS THE POTENTIAL TO USE NOT MORE THAN 50% OF THE POTENTIAL ELECTRICAL OUTPUT CAPACITY OF THE UNIT.

(c) "OZONE CONTROL PERIOD" MEANS THE PERIOD OF MAY 31, 2004, THROUGH SEPTEMBER 30, 2004, AND THE PERIOD OF MAY 1 THROUGH SEPTEMBER 30 EACH SUBSEQUENT YEAR. THE TERM "OZONE CONTROL PERIOD" REPLACES THE TERM "CONTROL PERIOD."

(d) "MICHIGAN FINE GRID ZONE" MEANS THE GEOGRAPHICAL AREA THAT INCLUDES ALL OF THE FOLLOWING COUNTIES:

(1) ALLEGAN.

(2) BARRY.

(3) BAY.

(4) BERRIEN.

(5) BRANCH.

(6) CALHOUN.

(7) CASS.

(8) CLINTON.

(9) EATON.

(10) GENESEE.

(11) GRATIOT.

- (12) HILLSDALE.
- (13) INGHAM.
- (14) IONIA.
- (15) ISABELLA.
- (16) JACKSON.
- (17) KALAMAZOO.
- (18) KENT.
- (19) LAPEER.
- (20) LENAWE.
- (21) LIVINGSTON.
- (22) MACOMB.
- (23) MECOSTA.
- (24) MIDLAND.
- (25) MONROE.
- (26) MONTCALM.
- (27) MUSKEGON.
- (28) NEWAYGO.
- (29) OAKLAND.
- (30) OCEANA.
- (31) OTTAWA.
- (32) SAGINAW.
- (33) SAINT CLAIR.
- (34) SAINT JOSEPH.
- (35) SANILAC.
- (36) SHIAWASSEE.
- (37) TUSCOLA.
- (38) VANBUREN.
- (39) WASHTENAW.
- (40) WAYNE.

(2) FOR R 336.1803 THROUGH R 336.1816, THE PROVISIONS OF 40 C.F.R. PART 96 (2001) ARE ADOPTED BY REFERENCE, EXCEPT AS MODIFIED IN R 336.1804, R 336.1805, R 336.1808, R 336.1811, R 336.1813, AND R 336.1815. A COPY MAY BE INSPECTED AT THE LANSING OFFICE OF THE AIR QUALITY DIVISION OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. COPIES OF THE REGULATION MAY BE OBTAINED FROM THE DEPARTMENT OF ENVIRONMENTAL QUALITY, AIR QUALITY DIVISION, 106 WEST ALLEGAN STREET, P.O. BOX 30260, LANSING, MICHIGAN 48909-7760, AT A COST AS OF THE TIME OF ADOPTION OF THIS RULE OF \$66.00. A COPY MAY ALSO BE OBTAINED FROM THE SUPERINTENDENT OF DOCUMENTS, GOVERNMENT PRINTING OFFICE, P.O. BOX 371954, PITTSBURGH, PENNSYLVANIA 15250-7954, AT A COST AS OF THE TIME OF ADOPTION OF THIS RULE OF \$66.00; OR ON THE UNITED STATES GOVERNMENT PRINTING OFFICE INTERNET WEB SITE AT WWW.ACCESS.GPO.GOV.

**R 336.1804 RETIRED UNIT EXEMPTION FROM OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**



RULE 804. THE PROVISIONS IN 40 C.F.R. §96.5 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE, WITH THE FOLLOWING MODIFICATIONS:

- (a) THE DATE IN (C)(2)(I) OF “MAY 1, 2003” SHALL BE REVISED TO “MAY 31, 2004.”
- (b) THE TIME PERIOD OF “18 MONTHS” IN (C)(2)(I) SHALL BE REVISED TO “270 DAYS.”
- (c) THE DATE IN (C)(2)(II) OF “MAY 1, 2003” SHALL BE REVISED TO “MAY 31, 2004.”

**R 336.1805 STANDARD REQUIREMENTS OF OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 805. THE PROVISIONS IN 40 C.F.R. §96.6 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE, WITH THE FOLLOWING MODIFICATION: THE DATE IN (C)(3) OF “MAY 1, 2003” SHALL BE REVISED TO “MAY 31, 2004.”

**R 336.1806 COMPUTATION OF TIME UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 806. THE PROVISIONS IN 40 C.F.R. §96.7 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE.

**R 336.1807 AUTHORIZED ACCOUNT REPRESENTATIVE UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 807. THE PROVISIONS IN 40 C.F.R. §96.10 THROUGH 96.14 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE.

**R 336.1808 PERMIT REQUIREMENTS UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 808. THE PROVISIONS IN 40 C.F.R. §96.20 THROUGH 96.25 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE, WITH THE FOLLOWING MODIFICATIONS:

- (a) ALL DATES IN §96.20 THROUGH 96.25 OF “JANUARY 1, 2000” SHALL BE REVISED TO “JANUARY 1, 2001,” AND OF “MAY 1, 2003” TO “MAY 31, 2004.”
- (b) THE TIME PERIOD OF “18 MONTHS” SHALL BE REVISED TO “270 DAYS.”
- (c) THE LANGUAGE FOLLOWING THE TERM “EFFECTIVE” IN §96.24 SHALL BE REPLACED WITH THE TERM “UPON ISSUANCE.”

**R 336.1809 COMPLIANCE CERTIFICATION UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 809. THE PROVISIONS IN 40 C.F.R. §§96.30 AND 96.31 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE.

**R 336.1810 ALLOWANCE ALLOCATIONS UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

**RULE 810. (1) THE TRADING PROGRAM BUDGET ALLOCATED BY THE DEPARTMENT UNDER SUBRULE (3) OF THIS RULE FOR AN OZONE CONTROL PERIOD SHALL EQUAL THE TOTAL NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS APPORTIONED TO THE OXIDES OF NITROGEN BUDGET UNITS UNDER R 336.1802 FOR THE OZONE CONTROL PERIOD, AS DETERMINED BY THE PROCEDURES IN THIS RULE. THE TOTAL NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS THAT ARE AVAILABLE FOR ALLOCATION AS OXIDES OF NITROGEN ALLOWANCES UNDER THIS RULE IS AS FOLLOWS:**

**(a) FOR ELECTRICITY-GENERATING UNITS, 32,407 TONS.**

**(b) FOR LARGE AFFECTED UNITS, 1,081 TONS.**

**(2) THE DEPARTMENT SHALL ALLOCATE OXIDES OF NITROGEN ALLOWANCES TO OXIDES OF NITROGEN BUDGET UNITS ACCORDING TO THE FOLLOWING SCHEDULE:**

**(a) A 3-YEAR ALLOCATION THAT IS 3 YEARS IN ADVANCE OF THE OZONE CONTROL PERIOD IN WHICH THE ALLOWANCES ARE TO BE USED. THE 3-YEAR ALLOCATION SHALL BE AS FOLLOWS:**

**(i) BY APRIL 1, 2002, THE DEPARTMENT SHALL SUBMIT, TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE OXIDES OF NITROGEN ALLOWANCE ALLOCATIONS, IN ACCORDANCE WITH SUBRULE (3) OF THIS RULE, FOR THE OZONE CONTROL PERIODS IN 2004, 2005, AND 2006.**

**(ii) BY APRIL 1, 2004, THE DEPARTMENT SHALL SUBMIT, TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE OXIDES OF NITROGEN ALLOWANCE ALLOCATIONS, IN ACCORDANCE WITH SUBRULE (3) OF THIS RULE, FOR THE OZONE CONTROL PERIOD IN 2007, 2008, AND 2009.**

**(iii) BY APRIL 1, 2007, THE DEPARTMENT SHALL SUBMIT, TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE OXIDES OF NITROGEN ALLOWANCE ALLOCATIONS, IN ACCORDANCE WITH SUBRULE (3) OF THIS RULE, FOR THE OZONE CONTROL PERIOD IN 2010, 2011, AND 2012.**

**(iv) BY APRIL 1, 2010, AND THEREAFTER APRIL 1 OF THE YEAR THAT IS 3 YEARS AFTER THE LAST YEAR OF ALLOCATIONS, THE DEPARTMENT SHALL SUBMIT, TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE OXIDES OF NITROGEN ALLOWANCE ALLOCATIONS, IN ACCORDANCE WITH SUBRULE (3) OF THIS RULE, FOR THE OZONE CONTROL PERIODS 3, 4, AND 5 YEARS AFTER THE YEAR OF THE ALLOWANCE ALLOCATION.**

**(b) IF THE DEPARTMENT FAILS TO SUBMIT THE OXIDES OF NITROGEN ALLOWANCE ALLOCATIONS IN ACCORDANCE WITH THIS SUBDIVISION TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THEN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WILL ALLOCATE, FOR THE APPLICABLE OZONE CONTROL PERIOD, THE SAME NUMBER OF OXIDES OF NITROGEN ALLOWANCES AS WERE ALLOCATED FOR THE PRECEDING OZONE CONTROL PERIOD.**

**(c) BY APRIL 1, 2005, AND APRIL 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL SUBMIT, TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE OXIDES OF NITROGEN ALLOWANCE ALLOCATIONS**

REMAINING IN THE ALLOCATION SET ASIDE FOR THE PRIOR OZONE CONTROL PERIOD, IN ACCORDANCE WITH SUBRULE (3) OF THIS RULE.

(3) THE HEAT INPUT, IN MILLION BTU'S, USED FOR CALCULATING OXIDES OF NITROGEN ALLOWANCE ALLOCATIONS FOR EACH OXIDES OF NITROGEN BUDGET UNIT UNDER R 336.1805 SHALL BE AS FOLLOWS:

(a) FOR AN OXIDES OF NITROGEN ALLOWANCE ALLOCATION UNDER SUBRULE (2)(A)(I) OF THIS RULE, THE FOLLOWING PROVISIONS APPLY, AS APPLICABLE:

(i) FOR AN ELECTRIC GENERATING UNIT, THE AVERAGE OF THE 2 HIGHEST AMOUNTS OF THE UNIT'S HEAT INPUT FOR THE OZONE CONTROL PERIODS IN 1995 THROUGH 2000 MULTIPLIED BY 1.07.

(ii) FOR A LARGE AFFECTED UNIT, THE AVERAGE OF THE 2 HIGHEST AMOUNTS OF THE UNIT'S HEAT INPUT FOR THE OZONE CONTROL PERIODS IN 1995 THROUGH 2000.

(b) FOR AN OXIDES OF NITROGEN ALLOWANCE ALLOCATION UNDER SUBRULE (2)(A)(II) THROUGH (IV) OF THIS RULE, THE UNIT'S AVERAGE OF THE 2 HIGHEST HEAT INPUTS FOR THE OZONE CONTROL PERIOD IN THE 5 YEARS IMMEDIATELY PRECEDING THE YEAR FOR WHICH THE DEPARTMENT IS REQUIRED TO SUBMIT THE OXIDES OF NITROGEN ALLOCATIONS.

(c) THE UNIT'S TOTAL HEAT INPUT FOR THE OZONE CONTROL PERIOD IN EACH YEAR SHALL BE DETERMINED IN ACCORDANCE WITH 40 C.F.R. PART 75 IF THE OXIDES OF NITROGEN BUDGET UNIT WAS OTHERWISE SUBJECT TO THE REQUIREMENTS OF 40 C.F.R. PART 75 FOR THE YEAR, OR SHALL BE BASED ON THE BEST AVAILABLE DATA REPORTED TO THE DEPARTMENT FOR THE UNIT IF THE UNIT WAS NOT OTHERWISE SUBJECT TO THE REQUIREMENTS OF 40 C.F.R. PART 75 FOR THE YEAR. THE OWNER OR OPERATOR OF AN OXIDES OF NITROGEN BUDGET UNIT SHALL SUBMIT HEAT INPUT DATA WITHIN 30 DAYS IF REQUESTED BY THE DEPARTMENT. TITLE 40 C.F.R. PART 75 IS ADOPTED BY REFERENCE IN R 336.1801.

(4) FOR EACH OZONE CONTROL PERIOD UNDER SUBRULE (2) OF THIS RULE, THE DEPARTMENT SHALL ALLOCATE TO ALL OXIDES OF NITROGEN BUDGET UNITS THAT COMMENCED OPERATION BEFORE MAY 1 OF THE MOST RECENT YEAR OF THE 5-YEAR PERIOD USED TO CALCULATE HEAT INPUT UNDER SUBRULE (3) OF THIS RULE, A TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES EQUAL TO 95% IN 2004, 2005, AND 2006, OR 98% THEREAFTER, OF THE TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET APPORTIONED IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:

(a) THE DEPARTMENT SHALL ALLOCATE OXIDES OF NITROGEN ALLOWANCES TO EACH ELECTRICITY-GENERATING UNIT IN AN AMOUNT EQUALING 0.15 POUND PER MILLION BTU'S OR THE ALLOWABLE EMISSION RATE, WHICHEVER IS MORE STRINGENT, MULTIPLIED BY THE HEAT INPUT DETERMINED UNDER SUBRULE (3) OF THIS RULE, ROUNDED TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE.

(B) IF THE INITIAL TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED TO ALL ELECTRICITY-GENERATING UNITS FOR AN OZONE

CONTROL PERIOD UNDER SUBDIVISION (A) OF THIS SUBRULE DOES NOT EQUAL 95% IN 2004, 2005, AND 2006, AND 98% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET APPORTIONED TO ELECTRIC GENERATING UNITS UNDER SUBRULE (1)(A) OF THIS RULE, THEN THE DEPARTMENT SHALL ADJUST THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED TO ALL OXIDES OF NITROGEN BUDGET UNITS FOR THE OZONE CONTROL PERIOD UNDER SUBDIVISION (A) OF THIS SUBRULE SO THAT THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED EQUALS 95% IN 2004, 2005, AND 2006, AND 98% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET APPORTIONED TO ELECTRIC GENERATING UNITS UNDER SUBRULE (1)(A) OF THIS RULE. THE ADJUSTMENT SHALL BE MADE BY DOING BOTH OF THE FOLLOWING:

(i) MULTIPLYING EACH UNIT'S ALLOCATION BY 95% IN 2004, 2005, AND 2006, AND 98% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET APPORTIONED TO ELECTRIC GENERATING UNITS.

(ii) DIVIDING BY THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED UNDER SUBDIVISION (A) OF THIS SUBRULE, AND ROUNDING TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE.

(c) THE DEPARTMENT SHALL ALLOCATE OXIDES OF NITROGEN ALLOWANCES TO EACH LARGE AFFECTED UNIT IN AN AMOUNT EQUALING 0.17 POUND PER MILLION BTU'S OR THE ALLOWABLE EMISSION RATE, WHICHEVER IS MORE STRINGENT, MULTIPLIED BY THE HEAT INPUT DETERMINED UNDER SUBRULE (3) OF THIS RULE, ROUNDED TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE.

(d) IF THE INITIAL TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED TO ALL LARGE AFFECTED UNITS FOR AN OZONE CONTROL PERIOD UNDER SUBDIVISION (C) OF THIS SUBRULE DOES NOT EQUAL 95% IN 2004, 2005, AND 2006, AND 98% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET APPORTIONED TO LARGE AFFECTED UNITS, THEN THE DEPARTMENT SHALL ADJUST THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED TO ALL OXIDES OF NITROGEN BUDGET UNITS FOR THE OZONE CONTROL PERIOD UNDER SUBDIVISION (C) OF THIS SUBRULE SO THAT THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED EQUALS 95% IN 2004, 2005, AND 2006, AND 98% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET APPORTIONED TO LARGE AFFECTED UNITS. THE ADJUSTMENT SHALL BE MADE BY DOING BOTH OF THE FOLLOWING:

(i) MULTIPLYING EACH UNIT'S ALLOCATION BY 95% IN 2004, 2005, AND 2006, AND 98% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET APPORTIONED TO LARGE AFFECTED UNITS.

(ii) DIVIDING BY THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED UNDER SUBDIVISION (C) OF THIS SUBRULE, AND ROUNDING TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE.

(e) THE AUTHORIZED ACCOUNT REPRESENTATIVE OF AN ELECTRIC GENERATING UNIT OR A LARGE AFFECTED UNIT THAT HAS NOT BEEN CAPABLE OF OPERATING FOR 2 COMPLETE OZONE CONTROL PERIODS, BECAUSE IT RECENTLY RECEIVED ITS AIR USE PERMIT, MAY ELECT TO ABANDON ITS ALLOWANCE ALLOCATION FOR THE 3-YEAR ALLOCATION PERIOD, BE CONSIDERED A NEW SOURCE, AND OBTAIN AN OXIDES OF NITROGEN ALLOWANCE ALLOCATION AS PROVIDED FOR BY SUBDIVISION (G) OF THIS SUBRULE. A WRITTEN NOTIFICATION OF THE ELECTION SHALL BE PROVIDED TO THE DEPARTMENT BEFORE JANUARY 1 OF THE DISTRIBUTION YEAR IDENTIFIED IN SUBRULE (2)(A) OR (C) OF THIS RULE. THE ABANDONED ALLOCATION RETURNS TO THE APPROPRIATE OXIDES OF NITROGEN TRADING BUDGET IN SUBRULE (1)(A) OR (B) OF THIS RULE.

(f) AFTER THE PROVISIONS OF SUBDIVISIONS (C) AND (D) OF THIS SUBRULE HAVE BEEN FOLLOWED, AN OWNER OR OPERATOR MAY PURSUE THE FOLLOWING:

(i) THE ALLOCATION DETERMINED BY SUBDIVISIONS (C) AND (D) OF THIS SUBRULE MAY BE REVISED FOR A GIVEN UNIT IF THE OWNER OR OPERATOR DEMONSTRATES TO THE DEPARTMENT THAT THE 0.17 POUND PER MILLION BTU CONTROL LEVEL RESULTS IN EXCESSIVELY COSTLY OR PROHIBITIVE COMPLIANCE. THE DEMONSTRATION SHALL INCLUDE ALL OF THE FOLLOWING:

(A) AN ENGINEERING STUDY ANALYZING ALL CONTROL OPTIONS THAT ARE TECHNICALLY AVAILABLE FOR THE UNIT, INCLUDING CONTROL OPTIONS THAT WOULD ACHIEVE A LEVEL OF CONTROL MEETING, AT A MINIMUM, A 0.3 POUND PER MILLION BTU EMISSION RATE.

(B) THE ANNUALIZED COST ASSOCIATED WITH EACH CONTROL OPTION. AN ANNUALIZED COST OF MORE THAN \$4,000.00 PER TON OF OXIDE OF NITROGEN REDUCED WILL GENERALLY BE CONSIDERED TO BE AN EXCESSIVE COST.

(C) OTHER CONSIDERATIONS CONTRIBUTING TO PROHIBITIVE COMPLIANCE.

(ii) NOTWITHSTANDING THE AVAILABLE ALLOCATIONS OF SUBRULE (1)(B) OF THIS RULE, THE TOTAL NUMBER OF ALLOCATIONS AVAILABLE FOR LARGE AFFECTED UNITS AFTER DEPARTMENT APPROVAL OF PARAGRAPH (i) DEMONSTRATIONS SHALL NOT BE MORE THAN 2,209 TONS PER OZONE SEASON.

(iii) THE DEPARTMENT SHALL DETERMINE HOW REVISED ALLOCATIONS ARE DISTRIBUTED AMONG THOSE UNITS MEETING THE CRITERIA IN PARAGRAPH (I) OF THIS SUBDIVISION.

(g) FOR OXIDES OF NITROGEN BUDGET UNITS THAT COMMENCED OPERATION, OR ARE PROJECTED TO COMMENCE OPERATION, ON OR AFTER MAY 1 OF THE MOST RECENT YEAR OF THE 5-YEAR PERIOD USED TO CALCULATE HEAT INPUT UNDER SUBRULE (3) OF THIS RULE AND UNITS WHICH HAVE ABANDONED ALLOCATIONS UNDER SUBDIVISION (E) OF THIS SUBRULE, THE

DEPARTMENT SHALL ALLOCATE OXIDES OF NITROGEN ALLOWANCES IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:

(i) THE DEPARTMENT SHALL ESTABLISH 2 ALLOCATION SET-ASIDE POOLS FOR EACH OZONE CONTROL PERIOD: 1 POOL FOR ELECTRIC GENERATING UNITS AND 1 FOR LARGE AFFECTED UNITS. EACH ALLOCATION SET-ASIDE POOL SHALL BE ALLOCATED OXIDES OF NITROGEN ALLOWANCES EQUAL TO 5% IN 2004, 2005, AND 2006, AND 2% THEREAFTER, OF THE TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET UNDER SUBRULE (1) OF THIS RULE, ROUNDED TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE.

(ii) THE OXIDES OF NITROGEN AUTHORIZED ACCOUNT REPRESENTATIVE OF AN OXIDES OF NITROGEN BUDGET UNIT UNDER THIS SUBDIVISION MAY SUBMIT TO THE DEPARTMENT AN ANNUAL REQUEST, IN WRITING OR IN A FORMAT SPECIFIED BY THE DEPARTMENT, TO BE ALLOCATED OXIDES OF NITROGEN ALLOWANCES FOR NOT MORE THAN 3 CONSECUTIVE OZONE CONTROL PERIODS UNDER SUBRULE (2) OF THIS RULE, STARTING WITH THE OZONE CONTROL PERIOD DURING WHICH THE OXIDES OF NITROGEN BUDGET UNIT COMMENCED OR IS PROJECTED TO COMMENCE OPERATION AND ENDING WITH THE OZONE CONTROL PERIOD PRECEDING THE OZONE CONTROL PERIOD FOR WHICH IT SHALL RECEIVE AN ALLOCATION UNDER SUBDIVISION (A) OR (C) OF THIS SUBRULE. THE OXIDES OF NITROGEN ALLOWANCE ALLOCATION REQUEST SHALL BE SUBMITTED BEFORE MAY 1 OF THE FIRST OZONE CONTROL PERIOD FOR WHICH THE OXIDES OF NITROGEN ALLOWANCE ALLOCATION IS REQUESTED AND AFTER THE DATE ON WHICH THE DEPARTMENT ISSUES A PERMIT TO INSTALL THE OXIDES OF NITROGEN BUDGET UNIT.

(iii) IN AN OXIDES OF NITROGEN ALLOWANCE ALLOCATION REQUEST UNDER THIS SUBDIVISION, THE OXIDES OF NITROGEN AUTHORIZED ACCOUNT REPRESENTATIVE MAY REQUEST AN OZONE CONTROL PERIOD OXIDES OF NITROGEN ALLOWANCE IN AN AMOUNT THAT DOES NOT EXCEED THE FOLLOWING:

(A) FOR AN ELECTRICITY-GENERATING UNIT, ALL OF THE FOLLOWING:

(1) FIFTEEN ONE-HUNDREDTHS (0.15) POUND PER MILLION BTU'S OR THE ALLOWABLE EMISSION RATE, WHICHEVER IS MORE STRINGENT.

(2) MULTIPLIED BY THE OXIDES OF NITROGEN BUDGET UNIT'S MAXIMUM DESIGN HEAT INPUT, IN MILLION BTU'S PER HOUR.

(3) MULTIPLIED BY THE NUMBER OF HOURS REMAINING IN THE OZONE CONTROL PERIOD STARTING WITH THE FIRST DAY IN THE OZONE CONTROL PERIOD ON WHICH THE UNIT OPERATED OR IS PROJECTED TO OPERATE.

(B) FOR A LARGE AFFECTED UNIT, ALL OF THE FOLLOWING:

(1) SEVENTEEN ONE-HUNDREDTHS (0.17) POUND PER MILLION BTU'S OR THE ALLOWABLE EMISSION RATE, WHICHEVER IS MORE STRINGENT.

(2) MULTIPLIED BY THE OXIDES OF NITROGEN BUDGET UNIT'S MAXIMUM DESIGN HEAT INPUT, IN MILLION BTU'S PER HOUR.

(3) MULTIPLIED BY THE NUMBER OF HOURS REMAINING IN THE OZONE CONTROL PERIOD STARTING WITH THE FIRST DAY IN THE OZONE CONTROL PERIOD ON WHICH THE UNIT OPERATED OR IS PROJECTED TO OPERATE.

(iv) THE DEPARTMENT SHALL REVIEW, AND ALLOCATE OXIDES OF NITROGEN ALLOWANCES PURSUANT TO, EACH OXIDES OF NITROGEN ALLOWANCE ALLOCATION REQUEST ON A PRO RATA BASIS AS FOLLOWS:

(A) UPON RECEIPT OF THE OXIDES OF NITROGEN ALLOWANCE ALLOCATION REQUEST, THE DEPARTMENT SHALL DETERMINE WHETHER, AND SHALL MAKE ANY NECESSARY ADJUSTMENTS TO THE REQUEST TO ENSURE THAT, FOR ELECTRICITY-GENERATING UNITS, THE OZONE CONTROL PERIOD AND THE NUMBER OF ALLOWANCES SPECIFIED ARE CONSISTENT WITH THE REQUIREMENTS OF SUBRULE (3)(A) OF THIS RULE AND, FOR LARGE AFFECTED UNITS, THE OZONE CONTROL PERIOD AND THE NUMBER OF ALLOWANCES SPECIFIED ARE CONSISTENT WITH THE REQUIREMENTS OF SUBRULE (3)(B) OF THIS RULE.

(B) IF THE ALLOCATION SET-ASIDE POOL FOR THE OZONE CONTROL PERIOD FOR WHICH OXIDES OF NITROGEN ALLOWANCES ARE REQUESTED HAS AN AMOUNT OF OXIDES OF NITROGEN ALLOWANCES GREATER THAN OR EQUAL TO THE NUMBER REQUESTED, AS ADJUSTED UNDER PARAGRAPH (I) OF THIS SUBDIVISION, THEN THE DEPARTMENT SHALL ALLOCATE THE AMOUNT OF THE OXIDES OF NITROGEN ALLOWANCES REQUESTED, AS ADJUSTED UNDER PARAGRAPH (I) OF THIS SUBDIVISION, TO THE OXIDES OF NITROGEN BUDGET UNIT.

(C) IF THE ALLOCATION SET-ASIDE POOL FOR THE OZONE CONTROL PERIOD FOR WHICH OXIDES OF NITROGEN ALLOWANCES ARE REQUESTED HAS AN AMOUNT OF OXIDES OF NITROGEN ALLOWANCES LESS THAN THE NUMBER REQUESTED, AS ADJUSTED UNDER PARAGRAPH (I) OF THIS SUBDIVISION, THEN THE DEPARTMENT SHALL ADJUST THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED TO ALL OXIDES OF NITROGEN BUDGET UNITS FOR THE OZONE CONTROL PERIOD SO THAT THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED EQUALS 5% IN 2004, 2005, AND 2006, AND 2% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET. THE ADJUSTMENT SHALL BE MADE BY DOING THE FOLLOWING, AS APPROPRIATE:

(1) FOR ELECTRIC-GENERATING UNITS, MULTIPLYING EACH UNIT'S ALLOCATION BY 5% IN 2004, 2005, AND 2006, AND 2% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET APPORTIONED TO ELECTRICITY-GENERATING UNITS AND DIVIDING BY THE SUM OF OXIDES OF NITROGEN ALLOWANCES REQUESTED UNDER THIS SUBDIVISION FOR ELECTRICITY-GENERATING UNITS, AND ROUNDING TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE.

(2) FOR LARGE AFFECTED UNITS, MULTIPLYING EACH UNIT'S ALLOCATION BY 5% IN 2004, 2005, AND 2006, AND 2% THEREAFTER, OF THE NUMBER OF TONS OF OXIDES OF NITROGEN EMISSIONS IN THE TRADING PROGRAM BUDGET

APPORTIONED TO LARGE AFFECTED UNITS AND DIVIDING BY THE SUM OF OXIDES OF NITROGEN ALLOWANCES REQUESTED UNDER THIS SUBDIVISION FOR LARGE AFFECTED UNITS AND ROUNDING TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE.

(5) FOR AN OXIDES OF NITROGEN BUDGET UNIT THAT IS ALLOCATED OXIDES OF NITROGEN ALLOWANCES UNDER SUBRULE (4) OF THIS RULE FOR AN OZONE CONTROL PERIOD, THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WILL DEDUCT OXIDES OF NITROGEN ALLOWANCES UNDER 40 C.F.R. §§96.54(B)(1) OR 96.54(E) TO ACCOUNT FOR THE ACTUAL UTILIZATION OF THE UNIT DURING THE OZONE CONTROL PERIOD. THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WILL CALCULATE THE NUMBER OF EXCESS OXIDES OF NITROGEN ALLOWANCES REMAINING IN THE SET-ASIDE POOL USING THE FOLLOWING FORMULAS AND ROUNDING TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE, IF THE NUMBER OF OXIDES OF NITROGEN ALLOWANCES REMAINING IS 0 IF THE NUMBER CALCULATED IS LESS THAN 0:

(a) OXIDES OF NITROGEN ALLOWANCES REMAINING FOR ELECTRICITY-GENERATING UNITS EQUALS THE SUM OF EACH UNIT'S OXIDES OF NITROGEN ALLOWANCES ALLOCATED FOR THE OZONE CONTROL PERIOD MINUS EACH UNIT'S ACTUAL OZONE CONTROL PERIOD UTILIZATION TIMES 0.15 POUND PER MILLION BTU'S OR THE ALLOWABLE EMISSION RATE, WHICHEVER IS MORE STRINGENT.

(b) OXIDES OF NITROGEN ALLOWANCES REMAINING FOR LARGE AFFECTED UNITS EQUALS THE SUM OF EACH UNIT'S OXIDES OF NITROGEN ALLOWANCES ALLOCATED FOR OZONE CONTROL PERIOD MINUS THE UNIT'S ACTUAL OZONE CONTROL PERIOD UTILIZATION TIMES 0.17 POUND PER MILLION BTU'S OR THE ALLOWABLE EMISSION RATE, WHICHEVER IS MORE STRINGENT. WHERE: "UNIT'S OXIDES OF NITROGEN ALLOWANCES ALLOCATED FOR OZONE CONTROL PERIOD" IS THE NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED TO THE UNIT FOR THE OZONE CONTROL PERIOD UNDER SUBRULE (4) OF THIS RULE; AND WHERE "UNIT'S ACTUAL OZONE CONTROL PERIOD UTILIZATION" IS THE UTILIZATION, IN MILLION BTU'S, AS DEFINED IN R 336.1803, OF THE UNIT DURING THE OZONE CONTROL PERIOD. TITLE 40 C.F.R., PART 96, IS ADOPTED BY REFERENCE IN R 336.1803.

(6) AFTER MAKING THE DEDUCTIONS FOR COMPLIANCE UNDER 40 C.F.R. §96.54(B)(1) OR (E) FOR AN OZONE CONTROL PERIOD, THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WILL NOTIFY THE DEPARTMENT WHETHER ANY OXIDES OF NITROGEN ALLOWANCES REMAIN IN THE ELECTRIC GENERATING UNIT ALLOCATION SET-ASIDE POOL OR THE LARGE AFFECTED UNIT SET-ASIDE POOL FOR THE OZONE CONTROL PERIOD. THE DEPARTMENT SHALL ALLOCATE ANY REMAINING OXIDES OF NITROGEN ALLOWANCES TO THE OXIDES OF NITROGEN BUDGET UNITS RECEIVING ALLOCATIONS UNDER SUBRULE (4)(A) THROUGH (D) AND (F) OF THIS RULE USING THE FOLLOWING FORMULA AND ROUNDING TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE. A UNIT'S SHARE OF



OXIDES OF NITROGEN ALLOWANCES REMAINING IN THE APPROPRIATE ALLOCATION SET-ASIDE POOL EQUALS TOTAL OXIDES OF NITROGEN ALLOWANCES REMAINING IN THE ALLOCATION SET-ASIDE POOL TIMES (UNIT'S OXIDES OF NITROGEN ALLOWANCE ALLOCATION DIVIDED BY TRADING PROGRAM BUDGET EXCLUDING THE ALLOCATION SET-ASIDE) WHERE:

(a) TOTAL OXIDES OF NITROGEN ALLOWANCES REMAINING IN ALLOCATION SET-ASIDE POOL IS THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES REMAINING IN THE ALLOCATION SET-ASIDE POOL FOR THE OZONE CONTROL PERIOD TO WHICH THE ALLOCATION SET-ASIDE POOL APPLIES.

(b) UNIT'S OXIDES OF NITROGEN ALLOWANCE ALLOCATION IS THE NUMBER OF OXIDES OF NITROGEN ALLOWANCES ALLOCATED UNDER SUBRULE (4)(A) THROUGH (E) OF THIS RULE TO THE UNIT FOR THE OZONE CONTROL PERIOD TO WHICH THE ALLOCATION SET-ASIDE APPLIES.

(c) THE TRADING PROGRAM BUDGET, EXCLUDING ALLOCATION SET-ASIDE POOL, IS THE TRADING PROGRAM BUDGET UNDER SUBRULE (1) OF THIS RULE FOR THE OZONE CONTROL PERIOD TO WHICH THE ALLOCATION SET-ASIDE APPLIES MULTIPLIED BY 95% IF THE OZONE CONTROL PERIOD IS IN 2004, 2005, OR 2006 AND 98% IF THE OZONE CONTROL PERIOD IS IN ANY YEAR THEREAFTER, ROUNDED TO THE NEAREST WHOLE OXIDES OF NITROGEN ALLOWANCE, AS APPROPRIATE.

(d) WHEN ALLOCATIONS FOR LARGE AFFECTED UNITS ARE INCREASED BY THE PROVISIONS OF SUBRULE (4)(F) OF THIS RULE, THE TRADING PROGRAM BUDGET FOR LARGE AFFECTED UNITS IS THE TOTAL ALLOCATION INCREASE ADDED TO THE BUDGET CALCULATED IN SUBDIVISION (C) OF THIS SUBRULE.

**R 336.1811 ALLOWANCE TRACKING SYSTEM UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 811. THE PROVISIONS IN 40 C.F.R. §§96.50 THROUGH 96.54, 96.56, AND 96.57 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE, WITH THE FOLLOWING MODIFICATION: IN §96.53, THE DATE OF "2003" SHALL BE REVISED TO "2004."

**R 336.1812 ALLOWANCE TRANSFERS UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 812. THE PROVISIONS IN 40 C.F.R. §§96.60 THROUGH 96.62 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE.

**R 336.1813 MONITORING AND REPORTING REQUIREMENTS UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 813. THE PROVISIONS IN 40 C.F.R. §§96.70 THROUGH 96.76 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE, WITH THE FOLLOWING MODIFICATION: IN §96.70, THE DATE "MAY 1, 2002," SHALL BE REVISED TO "MAY 1, 2003."

**R 336.1814 INDIVIDUAL OPT-INS UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 814. THE PROVISIONS IN 40 C.F.R. §§96.80 THROUGH 96.88 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE.

**R 336.1815 ALLOWANCE BANKING UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 815. THE PROVISIONS IN 40 C.F.R. §96.55 ARE ADOPTED BY REFERENCE IN R 336.1803 AND ARE APPLICABLE TO THIS RULE, WITH THE FOLLOWING MODIFICATIONS:

- (a) IN §96.55, THE DATE OF "2004" SHALL BE REVISED TO "2005."
- (b) THE FIRST SENTENCE OF (B)(3)(II) SHALL BE REVISED TO READ, "THE ADMINISTRATOR WILL MULTIPLY THE NUMBER OF BANKED OXIDES OF NITROGEN ALLOWANCES IN EACH COMPLIANCE ACCOUNT OR OVERDRAFT ACCOUNT BY THE RATIO DETERMINED UNDER (I)."
- (c) SUBPART (C) IN §96.55 SHALL BE DELETED.

**R 336.1816 COMPLIANCE SUPPLEMENT POOL UNDER OXIDES OF NITROGEN BUDGET TRADING PROGRAM.**

RULE 816. (1) THE DEPARTMENT MAY ALLOW SOURCES REQUIRED TO IMPLEMENT OXIDES OF NITROGEN EMISSION CONTROL MEASURES BY MAY 31, 2004, AND SUBJECT TO THIS RULE, TO DEMONSTRATE COMPLIANCE IN THE 2004 AND 2005 OZONE CONTROL PERIODS USING CREDIT ISSUED FROM A COMPLIANCE SUPPLEMENT POOL IN ACCORDANCE WITH THIS RULE. A SOURCE SHALL NOT USE CREDIT FROM THE COMPLIANCE SUPPLEMENT POOL TO DEMONSTRATE COMPLIANCE AFTER THE 2005 OZONE CONTROL PERIOD.

(2) THE DEPARTMENT MAY DISTRIBUTE OXIDES OF NITROGEN ALLOCATIONS FROM THE COMPLIANCE SUPPLEMENT POOL TO OXIDES OF NITROGEN BUDGET UNITS THAT ARE REQUIRED TO IMPLEMENT CONTROL MEASURES. THE DEPARTMENT MAY ISSUE UP TO 95% OF THE COMPLIANCE SUPPLEMENT POOL TO OXIDES OF NITROGEN BUDGET UNITS THAT ARE ELECTRICITY-GENERATING UNITS AND UP TO 5% OF THE COMPLIANCE SUPPLEMENT POOL TO OXIDES OF NITROGEN BUDGET UNITS THAT ARE LARGE AFFECTED UNITS THAT IMPLEMENT EMISSIONS REDUCTIONS BEYOND ALL APPLICABLE REQUIREMENTS DURING THE OZONE CONTROL PERIOD IN YEARS BEFORE THE YEAR 2004 ACCORDING TO THE FOLLOWING PROVISIONS:

- (a) THE DEPARTMENT SHALL COMPLETE THE ISSUANCE PROCESS NOT LATER THAN MAY 31, 2004.
- (b) THE EMISSIONS REDUCTION SHALL NOT BE REQUIRED BY MICHIGAN'S STATE IMPLEMENTATION PLAN, STATE LAW, OR RULE OR BE OTHERWISE REQUIRED BY THE CLEAN AIR ACT.
- (c) THE EMISSIONS REDUCTION SHALL BE VERIFIED BY THE SOURCE AS ACTUALLY HAVING OCCURRED DURING AN OZONE CONTROL PERIOD BETWEEN SEPTEMBER 30, 2000, AND MAY 31, 2004.

(d) EACH OXIDES OF NITROGEN BUDGET UNIT FOR WHICH THE OWNER OR OPERATOR REQUESTS ANY EARLY REDUCTION CREDITS UNDER THIS RULE SHALL MONITOR OXIDES OF NITROGEN EMISSIONS IN ACCORDANCE WITH 40 C.F.R. PART 75, SUBPART H, STARTING AT LEAST 1 CALENDAR YEAR PRIOR TO THE OZONE CONTROL PERIOD FOR WHICH THE EARLY REDUCTION CREDITS ARE REQUESTED. THE UNIT'S MONITORING SYSTEM AVAILABILITY SHALL BE NOT LESS THAN 90% DURING THE FIRST OZONE CONTROL PERIOD IN WHICH MONITORING OCCURS FOR THIS PURPOSE, AND THE UNIT MUST BE IN COMPLIANCE WITH ANY APPLICABLE STATE OR FEDERAL EMISSIONS OR EMISSIONS-RELATED REQUIREMENTS.

(e) THE EMISSIONS REDUCTION MUST BE QUANTIFIED ACCORDING TO PROCEDURES SET FORTH IN 40 C.F.R. PART 75, SUBPART H, WHICH ARE ADOPTED BY REFERENCE IN R 336.1801.

(f) THE OXIDES OF NITROGEN AUTHORIZED ACCOUNT REPRESENTATIVE OF AN OXIDES OF NITROGEN BUDGET UNIT THAT MEETS THE REQUIREMENTS OF SUBDIVISIONS (B) THROUGH (D) OF THIS SUBRULE MAY SUBMIT TO THE DEPARTMENT A REQUEST FOR EARLY REDUCTION CREDITS FOR THE UNIT BASED ON OXIDES OF NITROGEN EMISSION RATE REDUCTIONS MADE BY THE UNIT IN THE OZONE CONTROL PERIOD FOR 2001 THROUGH 2003. THE REQUEST SHALL INCLUDE BOTH OF THE FOLLOWING:

(i) IN THE EARLY REDUCTION CREDIT REQUEST, THE OXIDES OF NITROGEN AUTHORIZED ACCOUNT REPRESENTATIVE MAY REQUEST EARLY REDUCTION CREDITS FOR THE OZONE CONTROL PERIOD IN AN AMOUNT EQUAL TO THE UNIT'S HEAT INPUT FOR THE OZONE CONTROL PERIOD, MULTIPLIED BY THE DIFFERENCE BETWEEN THE RATES IN BOTH OF THE FOLLOWING PROVISIONS:

(A) THE OXIDES OF NITROGEN EMISSION LIMIT REQUIRED BY MICHIGAN'S STATE IMPLEMENTATION PLAN, OTHERWISE REQUIRED BY THE CLEAN AIR ACT, OR 0.25 POUNDS PER MILLION BTU PER HOUR, WHICHEVER IS MOST STRINGENT.

(B) THE UNIT'S ACTUAL OXIDES OF NITROGEN EMISSION RATE FOR THE OZONE CONTROL PERIOD, WHICH MUST BE LOWER THAN THE RATE USED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH AND LESS THAN 80% OF THE ACTUAL 2000 OZONE CONTROL PERIOD OXIDES OF NITROGEN EMISSION RATE, DIVIDED BY 2,000 POUNDS PER TON, AND ROUNDED TO THE NEAREST TON.

(ii) THE EARLY REDUCTION CREDIT REQUEST SHALL BE SUBMITTED, IN A FORMAT SPECIFIED BY THE DEPARTMENT, BY OCTOBER 31 OF THE YEAR IN WHICH THE OXIDES OF NITROGEN EMISSION RATE REDUCTIONS ON WHICH THE REQUEST IS BASED ARE MADE OR A LATER DATE APPROVED BY THE DEPARTMENT.

(g) THE DEPARTMENT SHALL ALLOCATE OXIDES OF NITROGEN ALLOWANCES TO OXIDES OF NITROGEN BUDGET UNITS MEETING THE REQUIREMENTS OF THIS SUBDIVISION AND COVERED BY EARLY REDUCTION REQUESTS MEETING THE REQUIREMENTS OF SUBDIVISION (F)(II) OF THIS SUBRULE, IN ACCORDANCE WITH ALL OF THE FOLLOWING PROCEDURES:

(i) UPON RECEIPT OF EACH EARLY REDUCTION CREDIT REQUEST, THE DEPARTMENT SHALL ACCEPT THE REQUEST ONLY IF THE REQUIREMENTS OF SUBDIVISIONS (B) THROUGH (D) AND (F)(II) OF THIS SUBRULE ARE MET AND, IF THE REQUEST IS ACCEPTED, SHALL MAKE ANY NECESSARY ADJUSTMENTS TO THE REQUEST TO ENSURE THAT THE AMOUNT OF THE EARLY REDUCTION CREDITS REQUESTED MEETS THE REQUIREMENT OF SUBDIVISIONS (B) THROUGH (D) OF THIS SUBRULE.

(ii) IF THE COMPLIANCE SUPPLEMENT POOL HAS AN AMOUNT OF OXIDES OF NITROGEN ALLOWANCES EQUAL TO OR GREATER THAN THE NUMBER OF EARLY REDUCTION CREDITS IN ALL ACCEPTED EARLY REDUCTION CREDIT REQUESTS FOR 2001 THROUGH 2003, AS ADJUSTED UNDER PARAGRAPH (I) OF THIS SUBDIVISION, THEN THE DEPARTMENT SHALL ALLOCATE TO EACH OXIDES OF NITROGEN BUDGET UNIT COVERED BY THE ACCEPTED REQUESTS 1 ALLOWANCE FOR EACH EARLY REDUCTION CREDIT REQUESTED, AS ADJUSTED UNDER PARAGRAPH (I) OF THIS SUBDIVISION.

(iii) IF THE COMPLIANCE SUPPLEMENT POOL HAS AN AMOUNT OF OXIDES OF NITROGEN ALLOWANCES LESS THAN THE NUMBER OF EARLY REDUCTION CREDITS IN ALL ACCEPTED EARLY REDUCTION CREDIT REQUESTS FOR 2001 THROUGH 2003, AS ADJUSTED UNDER PARAGRAPH (I) OF THIS SUBDIVISION, THEN THE DEPARTMENT SHALL ALLOCATE OXIDES OF NITROGEN ALLOWANCES TO EACH OXIDES OF NITROGEN BUDGET UNIT COVERED BY THE ACCEPTED REQUESTS ACCORDING TO THE FOLLOWING FORMULA:

A UNIT'S ALLOCATED EARLY REDUCTION CREDITS EQUALS ((UNIT'S ADJUSTED EARLY REDUCTION CREDITS) DIVIDED BY (TOTAL ADJUSTED EARLY REDUCTION CREDITS REQUESTED BY ALL UNITS)) TIMES (AVAILABLE OXIDES OF NITROGEN ALLOWANCES FROM THE COMPLIANCE SUPPLEMENT POOL), WHERE:

(A) UNIT'S ADJUSTED EARLY REDUCTION CREDITS IS THE NUMBER OF EARLY REDUCTION CREDITS FOR THE UNIT FOR 2001 THROUGH 2003 IN ACCEPTED EARLY REDUCTION CREDIT REQUESTS, AS ADJUSTED UNDER PARAGRAPH (I) OF THIS SUBDIVISION.

(B) TOTAL ADJUSTED EARLY REDUCTION CREDITS REQUESTED BY ALL UNITS IS THE NUMBER OF EARLY REDUCTION CREDITS FOR ALL UNITS FOR 2001 THROUGH 2003 IN ACCEPTED EARLY REDUCTION CREDIT REQUESTS, AS ADJUSTED UNDER PARAGRAPH (I) OF THIS SUBDIVISION.

(C) AVAILABLE OXIDES OF NITROGEN ALLOWANCES FROM THE COMPLIANCE SUPPLEMENT POOL IS THE NUMBER OF OXIDES OF NITROGEN ALLOWANCES IN THE COMPLIANCE SUPPLEMENT POOL AND AVAILABLE FOR EARLY REDUCTION CREDITS FOR 2001 THROUGH 2003.

(h) BY MAY 31, 2004, THE DEPARTMENT SHALL SUBMIT, TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, THE ALLOCATIONS OF OXIDES OF NITROGEN ALLOWANCES DETERMINED UNDER SUBDIVISION (G) OF THIS SUBRULE. THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WILL RECORD THE ALLOCATIONS TO THE EXTENT THAT THEY ARE

CONSISTENT WITH THE REQUIREMENTS OF SUBDIVISIONS (B) THROUGH (G) OF THIS SUBRULE.

(i) OXIDES OF NITROGEN ALLOWANCES RECORDED UNDER SUBDIVISION (G) OF THIS SUBRULE MAY BE DEDUCTED FOR COMPLIANCE UNDER 40 C.F.R. §96.54(B) THROUGH (F) FOR THE OZONE CONTROL PERIODS IN 2004 OR 2005. NOTWITHSTANDING 40 C.F.R. §96.55(A), THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WILL DEDUCT AS RETIRED ANY OXIDES OF NITROGEN ALLOWANCE WHICH IS RECORDED UNDER SUBDIVISION (g) OF THIS SUBRULE AND WHICH IS NOT DEDUCTED FOR COMPLIANCE IN ACCORDANCE WITH 40 C.F.R. §96.54(B) THROUGH (F) FOR THE OZONE CONTROL PERIOD IN 2004 OR 2005.

(j) OXIDES OF NITROGEN ALLOWANCES RECORDED UNDER SUBDIVISION (G) OF THIS SUBRULE ARE TREATED AS BANKED ALLOWANCES IN 2005 FOR THE PURPOSES OF §96.55(A) AND (B).

(k) SOURCES THAT RECEIVE CREDIT ACCORDING TO THE REQUIREMENTS OF THIS RULE MAY TRADE THE CREDIT TO OTHER SOURCES OR PERSONS ACCORDING TO THE PROVISIONS IN THE TRADING PROGRAM.

TITLE 40 C.F.R., PART 96, IS ADOPTED BY REFERENCE IN R 336.1803.

(3) THE TOTAL NUMBER OF OXIDES OF NITROGEN ALLOWANCES AVAILABLE FROM THE COMPLIANCE SUPPLEMENT POOL SHALL NOT BE MORE THAN 9,907 TONS OF OXIDES OF NITROGEN. ANY OXIDES OF NITROGEN ALLOWANCES THAT REMAIN IN THE COMPLIANCE SUPPLEMENT POOL AFTER THE 2005 OZONE CONTROL PERIOD SHALL BE RETIRED.

### **R 336.1817 EMISSION LIMITATIONS AND RESTRICTIONS FOR PORTLAND CEMENT KILNS.**

RULE 817. (1) AS USED IN THIS RULE:

(a) "CLINKER" MEANS THE PRODUCT OF A PORTLAND CEMENT KILN FROM WHICH FINISHED CEMENT IS MANUFACTURED BY MILLING AND GRINDING.

(b) "LONG DRY KILN" MEANS A PORTLAND CEMENT KILN THAT EMPLOYS NO PREHEATING OF THE FEED. THE INLET FEED TO THE KILN IS DRY.

(c) "LONG WET KILN" MEANS A PORTLAND CEMENT KILN THAT EMPLOYS NO PREHEATING OF THE FEED. THE INLET FEED TO THE KILN IS A SLURRY.

(d) "LOW OXIDES OF NITROGEN BURNERS" MEANS A TYPE OF CEMENT KILN BURNER SYSTEM DESIGNED TO LOWER OXIDES OF NITROGEN FORMATION BY CONTROLLING FLAME TURBULENCE, DELAYING FUEL/AIR MIXING AND ESTABLISHING FUEL-RICH ZONES FOR INITIAL COMBUSTING, THAT FOR FIRING OF SOLID FUEL BY A KILN'S MAIN BURNER INCLUDES AN INDIRECT FIRING SYSTEM OR COMPARABLE TECHNIQUE FOR THE MAIN BURNER TO LOWER THE AMOUNT OF PRIMARY COMBUSTION AIR SUPPLIED WITH THE PULVERIZED FUEL. IN AN INDIRECT FIRING SYSTEM, 1 AIR STREAM IS USED TO CONVEY PULVERIZED FUEL FROM THE GRINDING EQUIPMENT AND ANOTHER AIR STREAM IS USED TO SUPPLY PRIMARY COMBUSTION AIR TO THE KILN BURNER WITH THE PULVERIZED FUEL, WITH INTERMEDIATE STORAGE OF THE FUEL.

(e) "MALFUNCTION" MEANS ANY SUDDEN, INFREQUENT, AND NOT REASONABLY PREVENTABLE FAILURE OF AIR POLLUTION CONTROL EQUIPMENT, PROCESS EQUIPMENT, OR A PROCESS TO OPERATE IN A NORMAL OR USUAL MANNER. FAILURES THAT ARE CAUSED IN PART BY POOR MAINTENANCE OR CARELESS OPERATION ARE NOT MALFUNCTIONS.

(f) "MID-KILN FIRING" MEANS THE SECONDARY FIRING IN A KILN SYSTEM BY INJECTING SOLID FUEL AT AN INTERMEDIATE POINT IN THE KILN SYSTEM USING A SPECIALLY DESIGNED FEED INJECTION MECHANISM FOR THE PURPOSE OF DECREASING OXIDES OF NITROGEN EMISSIONS THROUGH BOTH OF THE FOLLOWING:

(i) BURNING PART OF THE FUEL AT A LOWER TEMPERATURE.

(ii) REDUCING CONDITIONS AT THE FUEL INJECTION POINT THAT MAY DESTROY SOME OF THE OXIDES OF NITROGEN FORMED UPSTREAM IN THE KILN SYSTEM.

(g) "OZONE CONTROL PERIOD" MEANS THE PERIOD BEGINNING MAY 1 OF A YEAR AND ENDING ON SEPTEMBER 30 OF THE SAME YEAR, INCLUSIVE.

(h) "PORTLAND CEMENT" MEANS A HYDRAULIC CEMENT PRODUCED BY PULVERIZING CLINKER CONSISTING ESSENTIALLY OF HYDRAULIC CALCIUM SILICATES, USUALLY CONTAINING 1 OR MORE OF THE FORMS OF CALCIUM SULFATE AS AN INTERGROUND ADDITION.

(i) "PORTLAND CEMENT KILN" MEANS A SYSTEM, INCLUDING ANY SOLID, GASEOUS, OR LIQUID FUEL COMBUSTION EQUIPMENT, USED TO CALCINE AND FUSE RAW MATERIALS, INCLUDING LIMESTONE AND CLAY, TO PRODUCE PORTLAND CEMENT CLINKER.

(j) "PRECALCINER KILN" MEANS A KILN WHERE THE FEED TO THE KILN SYSTEM IS PREHEATED IN CYCLONE CHAMBERS AND A SECOND BURNER IS USED TO CALCINE MATERIAL IN A SEPARATE VESSEL ATTACHED TO THE PREHEATER BEFORE THE FINAL FUSION IN A KILN THAT FORMS CLINKER.

(k) "PREHEATER KILN" MEANS A PORTLAND CEMENT KILN WHERE THE FEED TO THE KILN SYSTEM IS PREHEATED IN CYCLONE CHAMBERS BEFORE THE FINAL FUSION IN A KILN THAT FORMS CLINKER.

(l) "SHUTDOWN" MEANS THE CESSATION OF OPERATION OF A PORTLAND CEMENT KILN FOR ANY PURPOSE.

(m) "START-UP" MEANS THE SETTING IN OPERATION OF A PORTLAND CEMENT KILN FOR ANY PURPOSE.

(2) THIS RULE APPLIES TO ANY PORTLAND CEMENT KILN LOCATED IN THE MICHIGAN FINE GRID ZONE AS DEFINED IN R 336.1803, WITH PROCESS RATES EQUAL TO OR GREATER THAN THE FOLLOWING:

(a) LONG DRY KILNS OF 12 TONS PER HOUR.

(b) LONG WET KILNS OF 10 TONS PER HOUR.

(c) PREHEATER KILNS OF 16 TONS PER HOUR.

(d) PRECALCINER AND COMBINED PREHEATER AND PRECALCINER KILNS OF 22 TONS PER HOUR.

(3) A UNIT SUBJECT TO THIS RULE AND A NEW SOURCE PERFORMANCE STANDARD OR A NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR

POLLUTANTS SHALL COMPLY WITH THE LIMITATIONS AND REQUIREMENTS OF THIS RULE OR THE LIMITATIONS AND REQUIREMENTS OF THE NEW SOURCE PERFORMANCE STANDARD OR THE NATIONAL EMISSION STANDARD FOR HAZARDOUS AIR POLLUTANTS, WHICHEVER IS MORE STRINGENT.

(4) THE REQUIREMENTS OF THIS RULE SHALL NOT APPLY TO A UNIT THAT IS PARTICIPATING IN THE OXIDES OF NITROGEN BUDGET TRADING PROGRAM UNDER R 336.1802 THROUGH R 336.1816. THE REQUIREMENTS OF SUBRULE (5) OF THIS RULE SHALL NOT APPLY DURING START-UP, SHUTDOWN, AND MALFUNCTION PERIODS.

(5) AFTER MAY 31, 2004, AN OWNER OR OPERATOR OF A PORTLAND CEMENT KILN SUBJECT TO THE PROVISIONS OF THIS RULE SHALL NOT OPERATE THE KILN UNTIL SEPTEMBER 30, 2004, AND ANY SUBSEQUENT YEAR FROM MAY 1 THROUGH SEPTEMBER 30, UNLESS THE OWNER OR OPERATOR COMPLIES WITH 1 OF THE FOLLOWING REQUIREMENTS DURING THE APPLICABLE MAY THROUGH SEPTEMBER TIME PERIOD EACH YEAR:

(a) OPERATION OF THE KILN WITH 1 OF THE FOLLOWING:

(i) LOW OXIDES OF NITROGEN BURNERS.

(ii) MID-KILN FIRING.

(b) A LIMIT ON THE AMOUNT OF OXIDES OF NITROGEN EMITTED WHEN AVERAGED OVER THE OZONE CONTROL PERIOD AS FOLLOWS:

(i) FOR LONG WET KILNS, 6 POUNDS OF OXIDES OF NITROGEN PER TON OF CLINKER PRODUCED.

(ii) FOR LONG DRY KILNS, 5.1 POUNDS OF OXIDES OF NITROGEN PER TON OF CLINKER PRODUCED.

(iii) FOR PREHEATER KILNS, 3.8 POUNDS OF OXIDES OF NITROGEN PER TON OF CLINKER PRODUCED.

(iv) FOR PRECALCINER AND COMBINED PREHEATER AND PRECALCINER KILNS, 2.8 POUNDS OF OXIDES OF NITROGEN PER TON OF CLINKER PRODUCED.

(c) INSTALLATION AND USE OF ALTERNATIVE CONTROL TECHNIQUES THAT MAY INCLUDE KILN SYSTEM MODIFICATIONS, SUCH AS CONVERSIONS TO SEMI-DRYING PROCESSING, SUBJECT TO DEPARTMENT AND UNITED STATES ENVIRONMENTAL PROTECTION AGENCY APPROVAL, THAT ACHIEVE A 30% EMISSIONS DECREASE FROM BASELINE OZONE CONTROL PERIOD EMISSIONS. BASELINE EMISSIONS SHALL BE THE AVERAGE OF THE SUM OF OZONE CONTROL PERIOD EMISSIONS FOR THE 2 HIGHEST EMITTING YEARS FROM 1995 THROUGH 2000.

(6) THE OWNER OR OPERATOR OF ANY PORTLAND CEMENT KILN PROPOSING TO INSTALL AND USE AN ALTERNATIVE CONTROL TECHNIQUE UNDER SUBRULE (5)(C) OF THIS RULE SHALL SUBMIT THE PROPOSED ALTERNATIVE CONTROL TECHNIQUE AND CALCULATION OF BASELINE EMISSIONS WITH SUPPORTING DOCUMENTATION TO THE DEPARTMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR APPROVAL BY MAY 31, 2003. THE DEPARTMENT SHALL INCLUDE THE APPROVED PLAN WITH EMISSION LIMITATIONS IN THE SOURCE'S OPERATING PERMIT.

(7) OZONE CONTROL PERIOD EMISSIONS SHALL BE DETERMINED USING 1 OF THE FOLLOWING METHODS:

(a) THE AVERAGE OF THE EMISSION FACTORS FOR THE TYPE OF KILN FROM THE "COMPILATION OF AIR POLLUTANT EMISSION FACTORS. VOLUME 1. STATIONARY POINT AND AREA SOURCES," PB95-196028, AND THE "ALTERNATIVE CONTROL TECHNIQUES DOCUMENT: NOX EMISSIONS FROM CEMENT MANUFACTURING," PB94-183522. THESE DOCUMENTS ARE ADOPTED BY REFERENCE IN THIS RULE. COPIES MAY BE INSPECTED AT THE LANSING OFFICE OF THE AIR QUALITY DIVISION OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. COPIES MAY BE OBTAINED FROM THE AIR QUALITY DIVISION, DEPARTMENT OF ENVIRONMENTAL QUALITY, 106 WEST ALLEGAN STREET, P.O. BOX 30260-7760, LANSING, MICHIGAN 48909, OR FROM THE NATIONAL TECHNICAL INFORMATION SERVICE, U.S. DEPARTMENT OF COMMERCE, SPRINGFIELD, VA 22161, AT A COST AT THE TIME OF ADOPTION OF THIS RULE OF \$278.00 AND \$41.00, RESPECTIVELY.

(b) THE SITE-SPECIFIC EMISSION FACTOR DEVELOPED FROM REPRESENTATIVE EMISSIONS TESTING, PURSUANT TO 40 C.F.R. PART 60, APPENDIX A, METHODS 7, 7A, 7C, 7D, OR 7E, BASED ON A RANGE OF TYPICAL OPERATING CONDITIONS. THE OWNER OR OPERATOR SHALL ESTABLISH THAT THESE OPERATING CONDITIONS ARE REPRESENTATIVE, SUBJECT TO APPROVAL BY THE DEPARTMENT, AND SHALL CERTIFY THAT THE EMISSIONS TESTING IS BEING CONDUCTED UNDER REPRESENTATIVE CONDITIONS. THE PROVISIONS OF 40 C.F.R. PART 60 ARE ADOPTED BY REFERENCE IN R 336.1801.

(c) AN ALTERNATE METHOD FOR ESTABLISHING THE EMISSION FACTORS, WHEN SUBMITTED WITH SUPPORTING DATA TO SUBSTANTIATE THE EMISSION FACTORS AND APPROVED BY THE DEPARTMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS SET FORTH IN SUBRULE (5)(C) OF THIS RULE.

(8) BEGINNING MAY 31, 2004, AND EACH OZONE CONTROL PERIOD THEREAFTER, ANY OWNER OR OPERATOR OF A PORTLAND CEMENT KILN SUBJECT TO THIS RULE SHALL DO EITHER OF THE FOLLOWING:

(a) COMPLETE AN INITIAL PERFORMANCE TEST AND SUBSEQUENT ANNUAL TESTING DURING THE OZONE CONTROL PERIOD OF EACH YEAR CONSISTENT WITH THE REQUIREMENTS OF 40 C.F.R. PART 60, APPENDIX A, METHODS 7, 7A, 7C, 7D, OR 7E OR AN ALTERNATE METHOD APPROVED PURSUANT TO SUBRULE (5)(C) OF THIS RULE.

(b) MONITOR OXIDES OF NITROGEN EMISSIONS DURING THE OZONE CONTROL PERIOD OF EACH YEAR USING A CONTINUOUS EMISSIONS MONITORING SYSTEM IN ACCORDANCE WITH 40 C.F.R., PART 60, SUBPART A, AND 40 C.F.R., PART 60, APPENDIX B, AND COMPLY WITH THE QUALITY ASSURANCE PROCEDURES IN APPENDIX F, OR 40 C.F.R., PART 75, AND ASSOCIATED APPENDICIES, AS APPLICABLE, AND IN A MANNER ACCEPTABLE TO THE DEPARTMENT.

(9) BEGINNING MAY 31, 2004, AND EACH OZONE CONTROL PERIOD THEREAFTER, ANY OWNER OR OPERATOR OF A PORTLAND CEMENT KILN



SUBJECT TO THIS RULE SHALL COMPLY WITH BOTH OF THE FOLLOWING RECORDKEEPING AND REPORTING REQUIREMENTS:

(a) AN OWNER OR OPERATOR SHALL CREATE AND MAINTAIN RECORDS THAT INCLUDE, BUT ARE NOT LIMITED TO BOTH OF THE FOLLOWING:

(i) ALL ROUTINE AND NONROUTINE MAINTENANCE, REPAIR, OR REPLACEMENT PERFORMED ON THE DEVICE OR DEVICES.

(ii) THE DATE, TIME, AND DURATION OF ANY START-UP, SHUTDOWN, OR MALFUNCTION IN THE OPERATION OF A KILN OR THE DEVICE OR DEVICES.

(b) AN OWNER OR OPERATOR SHALL CREATE AND MAINTAIN RECORDS THAT INCLUDE, BUT ARE NOT LIMITED TO, ALL OF THE FOLLOWING:

(i) THE EMISSIONS, IN POUNDS OF OXIDES OF NITROGEN PER TON OF CLINKER PRODUCED FROM EACH AFFECTED PORTLAND CEMENT KILN.

(ii) THE DATE, TIME, AND DURATION OF ANY START-UP, SHUTDOWN, OR MALFUNCTION IN THE OPERATION OF ANY OF THE CEMENT KILNS OR THE EMISSIONS MONITORING EQUIPMENT.

(iii) THE RESULTS OF ANY PERFORMANCE TESTING.

(iv) IF A UNIT IS EQUIPPED WITH A CONTINUOUS EMISSIONS MONITORING SYSTEM, THE FOLLOWING INFORMATION:

(A) IDENTIFICATION OF TIME PERIODS DURING WHICH OXIDES OF NITROGEN STANDARDS ARE EXCEEDED, THE REASON FOR THE EXCEEDANCE, AND ACTION TAKEN TO CORRECT THE EXCEEDANCE AND TO PREVENT SIMILAR FUTURE EXCEEDANCES.

(B) IDENTIFICATION OF THE TIME PERIODS FOR WHICH OPERATING CONDITIONS AND POLLUTANT DATA WERE NOT OBTAINED, INCLUDING REASONS FOR NOT OBTAINING SUFFICIENT DATA AND A DESCRIPTION OF CORRECTIVE ACTIONS TAKEN.

(v) ALL RECORDS REQUIRED TO BE PRODUCED OR MAINTAINED SHALL BE RETAINED ON SITE FOR A PERIOD OF 5 YEARS. THE RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT OR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UPON REQUEST.

(10) ANY OWNER OR OPERATOR OF A PORTLAND CEMENT KILN SUBJECT TO THIS RULE SHALL COMPLY WITH BOTH OF THE FOLLOWING REPORTING REQUIREMENTS:

(a) BY MAY 31, 2004, SUBMIT TO THE DEPARTMENT ALL OF THE FOLLOWING INFORMATION:

(i) THE IDENTIFICATION NUMBER AND TYPE OF EACH UNIT SUBJECT TO THIS RULE.

(ii) THE NAME AND ADDRESS OF THE PLANT WHERE THE UNIT IS LOCATED.

(iii) THE NAME AND TELEPHONE NUMBER OF THE PERSON RESPONSIBLE FOR DEMONSTRATING COMPLIANCE WITH THIS RULE.

(iv) ANTICIPATED CONTROL MEASURES.

(b) SUBMIT A REPORT DOCUMENTING FOR THAT UNIT THE TOTAL OXIDES OF NITROGEN EMISSIONS AND THE AVERAGE OXIDES OF NITROGEN EMISSION RATE FOR THE OZONE CONTROL PERIOD OF EACH YEAR TO THE DEPARTMENT BY OCTOBER 31, BEGINNING IN 2004 AND EACH YEAR THEREAFTER.

**R 336.1818 EMISSION LIMITATIONS AND RESTRICTIONS FOR INTERNAL COMBUSTION ENGINES.**

RULE 818. (1) AS USED IN THIS RULE:

(a) "DIESEL ENGINE" MEANS A COMPRESSION IGNITED 2- OR 4-STROKE ENGINE IN WHICH LIQUID FUEL INJECTED INTO THE COMBUSTION CHAMBER IGNITES WHEN THE AIR CHARGE HAS BEEN COMPRESSED TO A TEMPERATURE SUFFICIENTLY HIGH FOR AUTO-IGNITION.

(b) "DUAL FUEL ENGINE" MEANS A COMPRESSION IGNITED STATIONARY INTERNAL COMBUSTION ENGINE THAT IS BURNING LIQUID FUEL AND GASEOUS FUEL SIMULTANEOUSLY.

(c) "EMERGENCY STANDBY ENGINE" MEANS AN INTERNAL COMBUSTION ENGINE USED ONLY WHEN NORMAL POWER LINE OR NATURAL GAS SERVICE FAILS, OR FOR THE EMERGENCY PUMPING OF WATER FOR EITHER FIRE PROTECTION OR FLOOD RELIEF. AN EMERGENCY STANDBY ENGINE SHALL NOT BE OPERATED TO SUPPLEMENT A PRIMARY POWER SOURCE WHEN THE LOAD CAPACITY OR RATING OF THE PRIMARY POWER SOURCE HAS BEEN EITHER REACHED OR EXCEEDED.

(d) "ENGINE RATING" MEANS THE OUTPUT OF AN ENGINE AS DETERMINED BY THE ENGINE MANUFACTURER AND LISTED ON THE NAMEPLATE OF THE UNIT, REGARDLESS OF ANY DERATING.

(e) "HIGHER HEATING VALUE" MEANS THE TOTAL HEAT LIBERATED PER MASS OF FUEL BURNED (BTU PER POUND), WHEN FUEL AND DRY AIR AT STANDARD CONDITIONS UNDERGO COMPLETE COMBUSTION AND ALL RESULTANT PRODUCTS ARE BROUGHT TO THEIR STANDARD STATES AT STANDARD CONDITIONS. IF CERTIFICATION OF THE HIGHER HEATING VALUE IS NOT PROVIDED BY THE THIRD PARTY FUEL SUPPLIER, IT SHALL BE DETERMINED BY 1 OF THE FOLLOWING TEST METHODS:

(i) ASTM D2015-85 FOR SOLID FUELS.

(ii) ASTM D240-87 OR ASTM D2382-88 FOR LIQUID HYDROCARBON FUELS.

(iii) ASTM D1826-88 OR ASTM D1945-81 IN CONJUNCTION WITH ASTM D3588-89 FOR GASEOUS FUELS.

THESE METHODS ARE SPECIFIED AT 40 C.F.R. §52.3002. THE PROVISIONS OF 40 C.F.R. §52.3002 ARE ADOPTED BY REFERENCE IN THIS RULE. A COPY OF THE REGULATION MAY BE INSPECTED AT THE LANSING OFFICE OF THE AIR QUALITY DIVISION OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. COPIES OF THE REGULATION MAY BE OBTAINED FROM THE AIR QUALITY DIVISION, DEPARTMENT OF ENVIRONMENTAL QUALITY, 106 WEST ALLEGAN STREET, P.O. BOX 30260, LANSING, MICHIGAN 48909-7760, OR FROM THE SUPERINTENDENT OF DOCUMENTS, GOVERNMENT PRINTING OFFICE, P.O. BOX 371954, PITTSBURGH, PENNSYLVANIA 15250-7954, AT A COST AT THE TIME OF ADOPTION OF THIS RULE OF \$44.00.

(f) "LEAN-BURN ENGINE" MEANS ANY 2- OR 4-STROKE SPARK-IGNITED ENGINE THAT IS NOT A RICH-BURN ENGINE.

(g) "MAINTENANCE OPERATION" MEANS THE USE OF AN EMERGENCY STANDBY ENGINE AND FUEL SYSTEM DURING TESTING, REPAIR, AND ROUTINE MAINTENANCE TO VERIFY ITS READINESS FOR EMERGENCY STANDBY USE.

(h) "MALFUNCTION" MEANS ANY SUDDEN AND UNAVOIDABLE FAILURE OF AIR POLLUTION CONTROL EQUIPMENT OR PROCESS EQUIPMENT OR OF A PROCESS TO OPERATE IN A NORMAL OR USUAL MANNER. FAILURES THAT ARE CAUSED ENTIRELY OR IN PART BY POOR MAINTENANCE, CARELESS OPERATION, OR ANY OTHER PREVENTABLE UPSET CONDITION OR PREVENTABLE EQUIPMENT BREAKDOWN SHALL NOT BE CONSIDERED MALFUNCTIONS.

(i) "OUTPUT" MEANS THE SHAFT WORK OUTPUT FROM AN ENGINE, PLUS THE ENERGY RECLAIMED BY ANY USEFUL HEAT RECOVERY SYSTEM.

(j) "PEAK LOAD" MEANS THE MAXIMUM INSTANTANEOUS OPERATING LOAD.

(k) "PERMITTED CAPACITY FACTOR" MEANS THE ANNUAL PERMITTED FUEL USE DIVIDED BY THE MANUFACTURER'S SPECIFIED MAXIMUM FUEL CONSUMPTION TIMES 8,760 HOURS PER YEAR.

(l) "RICH-BURN ENGINE" MEANS A 2- OR 4-STROKE SPARK-IGNITED ENGINE WHERE THE MANUFACTURER'S ORIGINAL RECOMMENDED OPERATING AIR/FUEL RATIO DIVIDED BY THE STOICHIOMETRIC AIR/FUEL RATIO IS LESS THAN OR EQUAL TO 1.1.

(m) "SHUTDOWN" MEANS THE PERIOD OF TIME A UNIT IS COOLED FROM ITS NORMAL OPERATING TEMPERATURE TO COLD OR AMBIENT TEMPERATURE.

(n) "START-UP" MEANS THE PERIOD OF TIME A UNIT IS HEATED FROM COLD OR AMBIENT TEMPERATURE TO ITS NORMAL OPERATING TEMPERATURE AS SPECIFIED BY THE MANUFACTURER.

(o) "STATIONARY INTERNAL COMBUSTION ENGINE" MEANS ANY INTERNAL COMBUSTION ENGINE OF THE RECIPROCATING TYPE THAT IS EITHER ATTACHED TO A FOUNDATION AT A FACILITY OR IS DESIGNED TO BE CAPABLE OF BEING CARRIED OR MOVED FROM ONE LOCATION TO ANOTHER AND REMAINS AT A SINGLE SITE AT A BUILDING, STRUCTURE, FACILITY, OR INSTALLATION FOR MORE THAN 12 CONSECUTIVE MONTHS. ANY ENGINE OR ENGINES THAT REPLACE AN ENGINE AT A SITE THAT IS INTENDED TO PERFORM THE SAME OR SIMILAR FUNCTION AS THE ENGINE REPLACED IS INCLUDED IN CALCULATING THE CONSECUTIVE TIME PERIOD. NONROAD ENGINES AND ENGINES USED SOLELY FOR COMPETITION ARE NOT STATIONARY INTERNAL COMBUSTION ENGINES.

(p) "STOICHIOMETRIC AIR/FUEL RATIO" MEANS THE AIR/FUEL RATIO WHERE ALL FUEL AND ALL OXYGEN IN THE AIR/FUEL MIXTURE WILL BE CONSUMED.

(q) "UNIT" MEANS ANY DIESEL, LEAN-BURN, OR RICH-BURN STATIONARY INTERNAL COMBUSTION ENGINE AS DEFINED IN THIS RULE.

(2) THIS RULE APPLIES TO ANY OF THE FOLLOWING INTERNAL COMBUSTION ENGINES LOCATED IN THE MICHIGAN FINE GRID ZONE AS DEFINED IN R 336.1803 OF THESE RULES:

(a) A RICH BURN STATIONARY INTERNAL COMBUSTION ENGINE RATED AT EQUAL TO OR GREATER THAN 2,400 BREAK HORSEPOWER.

(b) A LEAN-BURN STATIONARY INTERNAL COMBUSTION ENGINE RATED EQUAL TO OR GREATER THAN 2,400 BREAK HORSEPOWER.

(c) A DIESEL STATIONARY INTERNAL COMBUSTION ENGINE RATED AT EQUAL TO OR GREATER THAN 3,000 BRAKE HORSEPOWER.

(d) A DUAL-FUEL STATIONARY INTERNAL COMBUSTION ENGINE RATED AT EQUAL TO OR GREATER THAN 4,400 BRAKE HORSEPOWER.

(3) AFTER MAY 31, 2004, AN OWNER OR OPERATOR OF A UNIT SUBJECT TO THE PROVISIONS OF THIS RULE SHALL NOT OPERATE THE UNIT UNTIL SEPTEMBER 30, 2004, AND ANY SUBSEQUENT YEAR FROM MAY 1 THROUGH SEPTEMBER 30 UNLESS THE OWNER OR OPERATOR COMPLIES WITH THE FOLLOWING REQUIREMENTS DURING THE APPLICABLE MAY THROUGH SEPTEMBER TIME PERIOD EACH YEAR:

AN OWNER OR OPERATOR OF A STATIONARY INTERNAL COMBUSTION ENGINE SHALL NOT CAUSE TO BE DISCHARGED INTO THE ATMOSPHERE ANY GASES THAT CONTAIN OXIDES OF NITROGEN IN EXCESS OF THE FOLLOWING APPLICABLE LIMIT, EXPRESSED AS NITROGEN DIOXIDE CORRECTED TO 15% PARTS PER MILLION BY VOLUME STACK GAS OXYGEN ON A DRY BASIS, AVERAGED OVER A ROLLING 30-DAY PERIOD:

(a) RICH-BURN, =2400 BREAK HORSEPOWER: 110 PARTS PER MILLION BY VOLUME.

(b) LEAN-BURN, =2400 BREAK HORSEPOWER: 125 PARTS PER MILLION BY VOLUME.

(c) DIESEL, =3000 BREAK HORSEPOWER: 175 PARTS PER MILLION BY VOLUME.

(d) DUAL FUEL, =4400 BREAK HORSEPOWER: 125 PARTS PER MILLION BY VOLUME.

(e) EACH EMISSION LIMIT EXPRESSED IN SUBDIVISIONS (A) THROUGH (D) OF THIS SUBRULE MAY BE MULTIPLIED BY X, WHERE X EQUALS THE ENGINE EFFICIENCY "E" DIVIDED BY A REFERENCE EFFICIENCY OF 30%. ENGINE EFFICIENCY "E" SHALL BE DETERMINED USING 1 OF THE METHODS SPECIFIED IN SUBDIVISION (F) THIS SUBRULE, WHICHEVER PROVIDES A HIGHER VALUE. HOWEVER, ENGINE EFFICIENCY "E" SHALL NOT BE LESS THAN 30%. AN ENGINE THAT HAS AN EFFICIENCY LOWER THAN 30% SHALL BE ASSIGNED AN EFFICIENCY OF 30%.

(f) ENGINE EFFICIENCY "E" SHALL BE DETERMINED BY EITHER OF THE FOLLOWING METHODS:

$$E = \frac{(Engine\ output)(100)}{Engine\ input}$$

(i)

WHERE ENERGY INPUT IS DETERMINED BY A FUEL MEASURING DEVICE ACCURATE TO ±5% AND IS BASED ON THE HIGHER HEATING VALUE OF THE FUEL. PERCENT EFFICIENCY "E" SHALL BE AVERAGED OVER 15 CONSECUTIVE MINUTES AND MEASURED AT PEAK LOAD FOR THE APPLICABLE ENGINE.

$$E = \frac{(\text{Manufacturers Rated Efficiency (continuous) at LHV})(\text{LHV})}{\text{HHV}}$$

(ii)

WHERE:

LHV = THE LOWER HEATING VALUE OF THE FUEL; AND

HHV = THE HIGHER HEATING VALUE OF THE FUEL.

(4) ANY OWNER OR OPERATOR OF A UNIT SUBJECT TO THE PROVISIONS OF THIS RULE SHALL DETERMINE COMPLIANCE USING A CONTINUOUS EMISSIONS MONITORING SYSTEM WHICH MEETS THE APPLICABLE REQUIREMENTS OF 40 C.F.R., PART 60, SUBPART A, AND 40 C.F.R., PART 60, APPENDIX B, AND COMPLY WITH THE QUALITY ASSURANCE PROCEDURES IN APPENDIX F OF 40 C.F.R., PART 75, AND ASSOCIATED APPENDICES, AS APPLICABLE, AND IN A MANNER ACCEPTABLE TO THE DEPARTMENT. THE PROVISIONS OF 40 C.F.R., PARTS 60 AND 75, ARE ADOPTED BY REFERENCE IN R 336.1801.

(5) ANY OWNER OR OPERATOR SUBJECT TO THE PROVISIONS OF SUBRULE (3) OF THIS RULE SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS:

(a) BY MAY 31, 2004, SUBMIT TO THE DEPARTMENT THE IDENTIFICATION NUMBER AND TYPE OF EACH UNIT SUBJECT TO THIS RULE, THE NAME AND ADDRESS OF THE PLANT WHERE THE UNIT IS LOCATED, AND THE NAME AND TELEPHONE NUMBER OF THE PERSON RESPONSIBLE FOR DEMONSTRATING COMPLIANCE WITH THIS RULE.

(b) SUBMIT A REPORT TO THE DEPARTMENT BY OCTOBER 31 OF EACH YEAR, BEGINNING IN 2004, DOCUMENTING THE TOTAL OXIDES OF NITROGEN EMISSIONS FROM MAY 31, 2004, THROUGH SEPTEMBER 30, 2004, AND MAY 1 THROUGH SEPTEMBER 30 OF EACH YEAR THEREAFTER FOR THAT UNIT.

(c) EACH OWNER OR OPERATOR OF A UNIT SUBJECT TO THIS RULE AND OPERATING A CONTINUOUS EMISSION MONITORING SYSTEM SHALL SUBMIT AN EXCESS EMISSIONS AND MONITORING SYSTEM PERFORMANCE REPORT, IN ACCORDANCE WITH THE REQUIREMENTS OF 40 C.F.R. §§60.7(C) AND (D).

(6) ANY OWNER OR OPERATOR SUBJECT TO THE PROVISIONS OF SUBRULE (3) OF THIS RULE SHALL NOT OPERATE SUCH EQUIPMENT UNLESS IT IS EQUIPPED WITH EITHER OF THE FOLLOWING:

(a) A CONTINUOUS EMISSION MONITORING SYSTEM WHICH MEETS THE APPLICABLE REQUIREMENTS OF 40 C.F.R. PART 60, SUBPART A, AND 40 C.F.R., PART 60, APPENDIX B, AND WHICH COMPLIES WITH THE QUALITY ASSURANCE PROCEDURES IN APPENDIX F OR 40 C.F.R., PART 75, AND ASSOCIATED APPENDICES, AS APPLICABLE, AND IN A MANNER ACCEPTABLE TO THE DEPARTMENT. THE CONTINUOUS EMISSION MONITORING SYSTEM SHALL BE USED TO DEMONSTRATE COMPLIANCE WITH THE APPLICABLE EMISSION LIMIT.

(b) AN ALTERNATE CALCULATION AND RECORDKEEPING PROCEDURE BASED UPON ACTUAL EMISSIONS TESTING AND CORRELATION WITH OPERATING PARAMETERS. THE INSTALLATION, IMPLEMENTATION, AND USE OF SUCH AN ALTERNATE CALCULATION AND RECORDKEEPING PROCEDURE MUST BE

APPROVED BY THE DEPARTMENT AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, IN WRITING, BEFORE IMPLEMENTATION.

(7) ANY OWNER OR OPERATOR OF A UNIT SUBJECT TO THIS RULE SHALL MAINTAIN ALL RECORDS NECESSARY TO DEMONSTRATE COMPLIANCE FOR A PERIOD OF 2 CALENDAR YEARS AT THE PLANT AT WHICH THE UNIT IS LOCATED. THE RECORDS SHALL BE MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST. THE OWNER OR OPERATOR SHALL MAINTAIN RECORDS OF THE FOLLOWING INFORMATION FOR EACH DAY THE UNIT IS OPERATED:

(a) IDENTIFICATION AND LOCATION OF EACH ENGINE SUBJECT TO THE REQUIREMENTS OF THIS RULE.

(b) CALENDAR DATE OF RECORD.

(c) THE NUMBER OF HOURS THE UNIT IS OPERATED DURING EACH DAY, INCLUDING START-UPS, SHUTDOWNS, MALFUNCTIONS, AND THE TYPE AND DURATION OF MAINTENANCE AND REPAIRS.

(d) DATE AND RESULTS OF EACH EMISSIONS INSPECTION.

(e) A SUMMARY OF ANY EMISSIONS CORRECTIVE MAINTENANCE TAKEN.

(f) THE RESULTS OF ALL COMPLIANCE TESTS.

(g) IF A UNIT IS EQUIPPED WITH A CONTINUOUS EMISSIONS MONITORING SYSTEM, THE FOLLOWING INFORMATION:

(i) IDENTIFICATION OF TIME PERIODS DURING WHICH OXIDES OF NITROGEN STANDARDS ARE EXCEEDED, THE REASON FOR THE EXCEEDANCE, AND ACTION TAKEN TO CORRECT THE EXCEEDANCE AND TO PREVENT SIMILAR FUTURE EXCEEDANCES.

(ii) IDENTIFICATION OF THE TIME PERIODS FOR WHICH OPERATING CONDITIONS AND POLLUTANT DATA WERE NOT OBTAINED, INCLUDING REASONS FOR NOT OBTAINING SUFFICIENT DATA AND A DESCRIPTION OF CORRECTIVE ACTIONS TAKEN.

---

NOTICE OF PUBLIC HEARING

---

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR QUALITY DIVISION**

**ORR # 2000-056**

The Michigan Department of Environmental Quality (DEQ), Air Quality Division, will conduct a public hearing on proposed administrative rules promulgated pursuant to Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); R 336.1801 through R 336.1819 (ORR 2000-056EQ). These amendments to the regulations for reducing emissions of oxides of nitrogen (NO<sub>x</sub>) have been developed in response to the U.S. Environmental Protection Agency's requirements for an approved State Implementation Plan for NO<sub>x</sub>.

The public hearing will be held on December 3, 2001, at 1:00 p.m., in the Air Quality Division Conference Room, Constitution Hall, 3<sup>rd</sup> floor, 525 West Allegan Street, Lansing, Michigan.

Copies of the proposed rules are available for inspection at all Air Quality Division offices or on the Internet at <http://www.deq.state.mi.us/aqd>. These rules can also be downloaded from the Internet through the Office of Regulatory Reform at <http://www.state.mi.us/orr>. Copies of the rules may also be obtained by contacting the Lansing office at:

Air Quality Division  
Michigan Department of Environmental Quality  
P.O. Box 30260  
Lansing, Michigan 48909-7760  
Phone: 517-373-7045  
Fax: 517-373-1265  
E-Mail: [halbeism@state.mi.us](mailto:halbeism@state.mi.us)

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by December 3, 2001.

Persons needing accommodations for effective participation in the meeting should contact the Air Quality Division at 517-373-7045 one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by Sections 5503 and 5512 of Act 451, being Sections 324.5503 and 324.5512 of the Michigan Compiled Laws, and Executive Order 1995-18. These rules will become effective seven days after filing with the Secretary of State.

---

Dennis M. Drake, Chief



---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF AGRICULTURE**

**PESTICIDE AND PLANT PEST MANAGEMENT DIVISION**

**REGULATION NO. 636. PESTICIDE APPLICATORS**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of agriculture by section 8325 of 1994 PA 451, MCL 324.8325)

R 285.636.1, R 285.636.2, R 285.636.3, R 285.636.4, R 285.636.5, R 285.636.7, R 285.636.8, R 285.636.12, and R 285.636.15 of the Michigan Administrative Code are amended, AND R 285.636.10 OF THE CODE IS RESCINDED AS FOLLOWS:

**R 285.636.1 Definitions.**

Rule 1. (1) As used in these rules:

- (a) "Act" means 1994 PA 451, MCL ~~Act No. 171 of the Public Acts of 1976-1994, as amended, being '286.551' - 324.8301 et seq. of the Michigan Compiled Laws.~~
- (b) "Aerial application" means the application of a pesticide by aircraft.
- (c) "Applicator" means a person who applies pesticides by any method for any purpose at any place.
- (d) ~~"Chemigation" means the application of pesticides to crops utilizing various irrigation systems, such as sprinklers or surface, drip, or trickle systems.~~
- (D) "CONCENTRATION" MEANS THE VOLUME OF PESTICIDE FORMULATION AND THE VOLUME OF CARRIER USED TO CREATE AN END USE DILUTION.
- (e) "Forest" means a concentration of trees and related vegetation in nonurban areas, which is sparsely inhabited, and infrequently used, by humans and which is characterized by natural terrain and drainage patterns.
- (f) "Fumigation" means the application of pesticide gases in sealed enclosures or structures, including any of the following:
  - (i) Soil.
  - (ii) Stored grain.
  - (iii) Railway cars.
  - (iv) Trucks.
  - (v) Greenhouses.
  - (vi) Indoor areas.
- (g) "Incidental use" means the application of a general use pesticide as an accompanying minor occurrence to a primary work assignment.

(h) "Licensed commercial applicator" means the owner, operator, or manager of a licensed pesticide application business.

(i) "Private registered applicator" means an applicator who applies pesticides as a scheduled and required work assignment for a private agricultural purpose.

(2) The terms defined in the act have the same meanings when used in these rules.

**R 285.636.2 Application for certification or registration.**

Rule 2. An applicator who is required to be certified or registered ~~pursuant to~~ UNDER the act shall apply on a form prescribed by the director AND PAY THE REQUIRED FEE. ~~The application shall be accompanied by the application fee prescribed by the act.~~ Commercial applicators ~~who apply for certification or registration~~ shall designate the category or categories of certification or registration desired in accordance with ~~the provisions of~~ R 285.636.3. ~~An application shall become void after~~ THE APPLICATION AND FEE ARE VOID ~~1 year~~ 6 MONTHS from the date the application is received.

**R 285.636.3 Certification or registration categories and subcategories for commercial applicators.**

Rule 3. (1) Agricultural pest management. ALL OF the following are subcategories of pesticide application for commercial applicators pertaining to agricultural pest management:

(a) Field crops. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of,~~ pesticides for the production of field crops, such as any of the following:

(i) Cereal grains.

(ii) Feed grains.

(iii) Beans.

(iv) Soybeans.

(v) Sugarbeets.

(vi) Forage.

(b) Vegetable crops. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of,~~ pesticides for the production of vegetable crops, such as any of the following:

(i) Tomatoes.

(ii) Potatoes.

(iii) Snap beans.

(iv) Celery.

(v) Onions.

(vi) Cucurbits.

(vii) Cole crops.

(viii) Sweet corn.

(c) Fruit crops. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of,~~ pesticides for the production of tree fruit, such as any of the following:

(i) Apples.

Cherries.

(iii) Pears.

(iv) Peaches.

(v) Plums.

(vi) Nuts.

This subcategory also includes small fruit crops, such as blueberries, strawberries, grapes, and raspberries.

(d) ~~Animal~~ LIVESTOCK PEST MANAGEMENT. This subcategory includes all of the following entities:

(i) ~~commercial~~ Applicators who use, ~~or supervise the use of,~~ pesticides on animals, including any of the following:

(A) Cattle.

(B) Swine.

(C) Sheep.

(D) Horses.

(E) Goats.

(F) Other livestock.

(G) Poultry.

(ii) A person who uses pesticides on or in places where animals are confined.

(iii) Doctors of veterinary medicine who are engaged in the business of applying pesticides for hire, who publicly hold themselves out as pesticide applicators, or who are engaged in the use of pesticides aside from the normal practice of veterinary medicine.

~~(2) Forest pest management. The following are subcategories of pesticide application for commercial applicators pertaining to forest pest management and forest products preservation:~~

~~(a) (2) Forest pest management. This subcategory includes commercial applicators who use, or supervise the use of,~~ pesticides in any of the following areas:

(i) Forests.

(ii) Forest nurseries.

(iii) Christmas tree plantations.

(iv) Forest seed-producing areas.

~~This subcategory does not include commercial applicators who use, or supervise the use of, pesticides for wood preservation of forest products.~~

~~(b)(A) Forest products preservation. This subcategory of forest pest management includes commercial applicators who use, or supervise the use of,~~ pesticides for preserving wood products.

(3) Turf grass, ornamental plants, and shade tree pest management. This category includes the following subcategories of pesticide application for ~~commercial pesticide applicators~~ APPLICATIONS pertaining to turf grass pest management and ornamental plants and shade tree pest management:

(a) Turf grass pest management. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of,~~ pesticides to manage pests of turf grasses.

(b) Ornamental plants and shade tree pest management. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of,~~ pesticides to manage pests of ornamental plants in exterior areas, such as evergreens, shrubs, and shade trees.

(4) Seed treatment. This category includes ~~commercial~~ applicators who use, ~~or supervise the use of,~~ pesticides on any of the following:

(i) Seeds.

- (ii) Corms.
- (iii) Tubers.
- (iv) Rhizomes.
- (v) Stolons.
- (vi) Other plant parts used for propagation.
- (5) Aquatic pest management. This category includes ~~commercial~~ applicators who use, ~~or supervise the use of~~, pesticides which are applied to lakes, ponds, streams, marshes, or ditches and tributaries which flow into them or which are applied to surfaces that contact such bodies of water to manage aquatic pests. This category does not include applicators who engage in mosquito management. This category includes the following subcategories:
  - (a) Swimming pools. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of~~, pesticides in maintaining public or private swimming pools to manage algae, bacteria, or other swimming pool pests.
  - (b) Microbial pest management. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of~~, pesticides in any of the following to manage bacteria, fungi, algae, or viruses:
    - (i) Cooling towers.
    - (ii) Air washers.
    - (iii) Evaporative condensers.
    - (iv) Pulp and paper mills.
    - (v) Sewer treatment.
- Other applications.
- (C) SEWER LINE PEST MANAGEMENT. THIS SUBCATEGORY INCLUDES APPLICATORS WHO USE PESTICIDES IN SEWER LINES FOR ROOT CONTROL.
- (6) Right-of-way pest management. This category includes ~~commercial~~ applicators who use, ~~or supervise the use of~~, pesticides in the maintenance of any of the following:
  - (a) Public roads.
  - (b) Ditch banks.
  - (c) Electric power lines.
  - (d) Pipelines.
  - (e) Railway rights-of-way.
  - (f) Parking lots.
  - (g) Tennis courts.
  - (h) Similar noncrop areas.
- (7) Industrial, institutional, structural, and health-related pest management. This category includes the following subcategories:
  - (a) General pest management. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of~~, pesticides in, on, or around any of the following:
    - (i) Food-handling establishments.
    - (ii) Human dwellings.
    - (iii) Institutions, such as schools and hospitals.
    - (iv) Industrial establishments, including warehouses and grain elevators.
    - (v) Any other structure or adjacent areas, including public or private vehicles.
    - (vi) The treatment of areas or structures set forth in paragraphs (i) to (v) of this subdivision for indoor mosquito management.

(vii) The protection of stored, processed, or manufactured products.

This subcategory does not include applicators who engage in the management of wood-destroying organisms as specified in subdivision (b) of this subrule.

(b) Wood-destroying organism management. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of~~, pesticides in, on, or around structures for the management of wood-destroying pests, such as any of the following:

(i) Termites.

(ii) Powder post beetles.

(iii) Carpenter ants.

(iv) Wood-destroying fungi.

(c) ~~RESERVED. Contractual public health pest management. This subcategory includes licensed commercial applicators who perform a public health pest management service under contract with a governmental agency and who use, or supervise the use of, pesticides to manage pests that have public health significance, but does not include applicators specified in subdivision (f) of this subrule.~~

(d) Vertebrate pest management. This subcategory includes ~~commercial~~ applicators who use, ~~or the of~~, pesticides TO manage vertebrate pests, such as birds, rats, or mice.

(e) Interior PLANT PEST MANAGEMENT ~~seape~~. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of~~, pesticides in the maintenance of plants at inside locations, such as any of the following:

(i) Homes.

(ii) Offices.

(iii) Shopping malls.

(iv) Stores.

(v) Similar sites.

(f) Mosquito management. This subcategory includes ~~commercial~~ applicators who use, ~~or supervise the use of~~, pesticides to manage mosquitoes in an outside environment.

(G) DOMESTIC ANIMAL PEST MANAGEMENT. THIS SUBCATEGORY INCLUDES APPLICATORS WHO USE PESTICIDES TO CONTROL PESTS ASSOCIATED WITH SMALL DOMESTIC ANIMALS, SUCH AS CATS AND DOGS.

(8) Public health pest management. This category includes state, federal, or other government employees who use, ~~or supervise the use of~~, pesticides in public health programs for the management of pests that have medical and public health importance, excluding mosquitoes.

(9) Regulatory pest management. This category includes state, federal, or other government employees who use, ~~or supervise the use of~~, pesticides in the management of regulated pests.

(10) Demonstration and research pest management. This category includes individuals who demonstrate to the public the proper use, and techniques of application of pesticides, who supervise ~~such~~ THE demonstrations, or who conduct field research with pesticides and, in so doing, use ~~or supervise the use of~~ restricted-use pesticides.

#### **R 285.636.4 Standards for certification of commercial applicators.**

Rule 4. Commercial applicators shall demonstrate a practical knowledge, by written examination, of the principles and practices of pest management, pesticide label

comprehension, and the safe use of pesticides, including the general standards applicable to all categories and the standards specifically identified for each category or subcategory designated by the applicant, as set forth in ~~the provisions of~~ 40 C.F.R. ' 171.4 and these rules. Applicators who apply pesticides by aircraft or WHO APPLY FUMIGANTS shall be examined on the additional standards specifically identified for the methods of application as specified in subdivision (c) of this rule. ~~THE standards for certification shall be~~ ARE as follows:

(a) All subcategory standards shall include a practical knowledge of all of the following:

- (i) Relevant and associated pests.
  - (ii) Environmental fate of pesticides.
  - (iii) Pesticide formulations in use and application equipment, equipment calibration, and methods of application.
  - (iv) Safety procedures to protect nontarget organisms.
- Integrated pest management principles.  
Container disposal and storage.  
Worker safety.

(b) Subcategory standards for particular categories shall be as follows:

(i) Field crops (R 285.636.3(1)(a)), vegetable crops (R 285.636.3(1)(b)), fruit crops (R 285.636.3(1)(c)), and animal subcategories (R 285.636.3(1)(d)). Applicators shall demonstrate a practical knowledge of ALL OF THE FOLLOWING:

- (A) The relevant crops or agricultural practices.
- (B) Pesticide residues.
- (C) Phytotoxicity where applicable.
- (D) Precautions necessary to reduce farm worker exposure to pesticides.

(ii) Forest pest management subcategory (R 285.636.3(2)(a)). Applicators shall demonstrate a practical knowledge of ALL OF THE FOLLOWING:

- (A) Forest pests and their life cycles and management.
- A general understanding of forest ecosystems.

The potential effect of pesticide applications on nontarget organisms.

(iii) Forest products preservation subcategory (R 285.636.3(2)(b)(A)).

Applicators shall demonstrate a practical knowledge of ALL OF THE FOLLOWING:

- (A) The principles and practices associated with the safe use of wood preservatives.
- (B) Obtaining site information.
- (C) Protecting wildlife and endangered species.
- (D) Maintaining surface water quality.

(iv) Turf grass pest management subcategory (R 285.636.3(3)(a)).

Applicators shall demonstrate a practical knowledge of all of the following:

- (A) The maintenance of turf.
- (B) Phytotoxicity.
- (C) Lawn grass species.
- (D) Physiological conditions.
- (E) The necessary procedures and precautions associated with the application of pesticides for the maintenance of lawn grasses.
- (v) Ornamental plants and shade tree pest management subcategory

(R 285.636.3(3)(b)). Applicators shall demonstrate a practical knowledge of the maintenance of ornamental plants and shade trees, including all of the following:

(A) The physiologic conditions of ornamental plants and shade trees.

(B) The calibration techniques unique to ornamental plant and shade tree pest management.

(C) The necessary procedures and precautions associated with the application of pesticides for the maintenance of shade trees and ornamental plants in the urban environment.

(vi) Seed treatment subcategory (R 285.636.3(4)). Applicators shall demonstrate a practical knowledge of the methods required to prohibit the contamination of grains ~~which~~ THAT may be utilized for feed or food purposes.

(vii) Aquatic subcategory(R 285.636.3(5)). Applicators shall demonstrate a practical knowledge of all of the following:

(A) The potential for human exposure after the pesticide application.

(B) The potential for surface or groundwater contamination.

(C) The requirement for obtaining permits from the Michigan department of environmental quality.

(viii) Swimming pools subcategory (R 285.636.3(5)(a)). Applicators shall demonstrate a practical knowledge of the application techniques and water management principles associated with the treatment of swimming pools and a practical knowledge of the effects of swimming pool treatment on humans.

(ix) Microbial pest management subcategory(R 285.636.3(5)(b)).

Applicators shall demonstrate a practical knowledge of the principles and practices associated with pesticide use to manage microbes, including application rates and pesticide efficiency use. In addition, applicators shall have knowledge of their responsibility to obtain discharge permits from the appropriate agencies.

(X) SEWER LINE PEST MANAGEMENT SUBCATEGORY (R 285.636.3(5)(c)).

APPLICATORS SHALL DEMONSTRATE A PRACTICAL KNOWLEDGE OF PRINCIPLES AND PRACTICES ASSOCIATED WITH PESTICIDE USE TO MANAGE ROOT GROWTH IN SEWER LINES.

~~(x)~~ (XI) Right-of-way pest management subcategory (R 285.636.3(6)).

Applicators shall demonstrate a practical knowledge of vegetation management principles with an emphasis on application techniques to protect surface water.

~~(xi)~~ (XII) General pest management subcategory (R 285.636.3(7)(a)).

Applicators shall demonstrate a practical knowledge of all of the following:

(A) A wide variety of pests, including all of the following with respect to pests:

(1) Their life cycles.

(2) Types of formulations appropriate for their management.

(3) Methods of application that avoid all of the following:

(a) The contamination of food.

(b) Damage and contamination of habitat.

(c) Exposure of people and pets.

(B) The specific factors ~~which~~ THAT may lead to a hazardous condition, including exposure to pesticides in the various situations encountered in this category.

(C) Indoor environmental conditions and the necessary procedures and precautions associated with the application of pesticides for the management of indoor pests in an urban environment.

~~(xii) (XIII) Wood-destroying organism management subcategory~~

(R 285.636.3(7)(b)). Applicators shall demonstrate a practical knowledge of all of the following:

(A) Wood-destroying organisms and their life cycles.

(B) The proper methods of pesticide application.

(C) The specific factors ~~which~~ THAT may lead to human exposure or to contamination of groundwater, indoor air, or other components of the environment.

~~(xiii) Contractual public health pest management subcategory~~

~~(R 285.636.3(7)(c)). Applicators shall demonstrate a practical knowledge of the management of pests that have medical and public health importance, including their life cycles and habitats, and have a practical knowledge of all of the following:~~

~~(A) A variety of indoor and outdoor environments.~~

~~(B) Effects of large scale pesticide application on human populations.~~

~~(C) The necessary procedures and precautions associated with the application of pesticides in an urban environment.~~

(xiv) Vertebrate pest management subcategory (R 285.636.3(7)(d)).

Applicators shall demonstrate a practical knowledge of the principles associated with the management of birds and other vertebrates, such as rats, mice, bats, tree squirrels, ground squirrels, skunks, moles, and snakes, and shall have knowledge of all of the following:

(A) Domestic animal, wildlife, and endangered species protection.

(B) Department of natural resources permits.

(C) Practices and precautions pertinent to the issues concerning the application of pesticides in urban environments.

(xv) Interior PLANT PEST MANAGEMENT ~~scape~~ subcategory (R 285.636.3(7)(e)).

Applicators shall demonstrate a practical knowledge of physiological conditions associated with the maintenance of interior plants, including all of the following:

(A) Plant phytotoxicity and persistence of pesticides.

(B) Indoor air contamination.

(C) Drift.

(D) Calibration.

(E) General hazards to humans in an enclosed environment.

(xvi) Mosquito management subcategory (R 285.636.3(7)(f)).

Applicators shall demonstrate a practical knowledge of the principles associated with the management of mosquitoes, including all of the following:

(A) Their life cycles.

(B) Types of formulations appropriate for their management.

(C) Methods of application.

(D) Possible effects on water quality.

(E) The potential health effects on humans in the target area.

(XVII) DOMESTIC ANIMAL PEST MANAGEMENT (R 285.636.7(G)). APPLICATORS SHALL DEMONSTRATE A PRACTICAL KNOWLEDGE OF THE MANAGEMENT OF



PESTS ASSOCIATED WITH SMALL DOMESTIC ANIMALS, INCLUDING, BUT NOT LIMITED TO, FLEAS AND TICKS.

~~(xvii)~~ (XVIII) Public health pest management (R 285.636.3(8)). Applicators shall demonstrate a practical knowledge of the management of pests that have medical and public health importance, including their life cycles and habitats, and have a practical knowledge including all of the following:

- (A) A variety of indoor and outdoor environments.
- (B) Effects of large-scale pesticide application on human populations.
- (C) The necessary procedures and precautions associated with the application of pesticides in an urban environment.

~~(xviii)~~ (XIX) Regulatory pest management (R 285.636.3(9)). Applicators shall demonstrate a practical knowledge of regulatory pest management, including all of the following:

- (A) Specific life cycles of the pest to be managed and appropriate management techniques.
- (B) The potential impact of pesticide applications to nontarget areas or organisms.
- (C) Structure and responsibility of cooperating state and federal agencies.
- (D) General public notification procedures.

~~(xix)~~ (XX) Demonstration and research pest management (R 285.636.3(10)).

Applicators shall be certified in the category or subcategory as required by R 285.636.3 and shall demonstrate a practical knowledge, including all of the following:

- (A) Procedures required for conducting demonstration and research plots.
- (B) Various methods of data analysis.
- (C) Necessary precautions for ensuring commodity security and destruction, if required.
- (D) Detailed knowledge of the state and federal pesticide registration process.
- (c) Additional certification standards are as follows:
  - (i) Aerial applicators. Applicators who apply pesticides by aircraft shall demonstrate a practical knowledge of the techniques of aerial application and applicable federal aviation administration regulations.

Practical knowledge is required concerning nontarget injury that may result from the aerial application of pesticides.

(ii) ~~Structural~~ fumigation. Applicators shall demonstrate a practical knowledge of the principles and methods of fumigation. Practical knowledge is required concerning all of the following:

- (A) Toxicity.
- (B) The potential for environmental contamination.
- (C) Applicator personal protection.
- (D) Human exposure.
- (E) Nontarget injury that may result from the use of pesticide gases in any environment.

~~(iii) Fumigation for soil borne, stored commodity, or greenhouse pests.~~

~~Applicators shall demonstrate a practical knowledge of the principles and methods of soil fumigation, stored commodity fumigation, and greenhouse fumigation. Practical knowledge is required concerning all of the following:~~

- ~~(A) Toxicity.~~
- ~~(B) The potential for environmental contamination.~~
- ~~(C) The nontarget injury that may result from the use of pesticide~~

~~gases.~~

~~(iv) Chemigation. Applicators shall demonstrate a practical knowledge of the principles and methods of application for applying pesticides through irrigation systems. Practical knowledge is required concerning all of the following:~~

~~(A) Toxicity.~~

~~(B) The environmental fate of the pesticides.~~

~~(C) Reentry.~~

~~Appropriate worker safety.~~

~~(d) —Administrative standards.—~~Applicators who request certification for a method of application ~~which~~ THAT differs in part from one of the established categories set forth in R 285.636.3 shall demonstrate a practical knowledge of such standards determined by the director as being applicable to the method of application described by the applicant. Such standards prescribed by the director shall include the general standards applicable to all categories and the standards specifically identified as appropriate for the applicant's method of application.

#### **R 285.636.5 Standards for certification of private applicators.**

Rule 5. Private applicators shall demonstrate a practical knowledge of the principles and practices of pest management and the safe use of pesticides, including the standards for certification of private applicators set forth in ~~the provisions of~~ 40 C.F.R. '171.5. In addition, private applicators who apply pesticides by aircraft or apply pesticides BY FUMIGATION ~~for structural fumigation, soil fumigation, fumigation for stored commodities, greenhouse fumigation, or chemigation~~ shall demonstrate a practical knowledge of the additional standards specifically identified for those methods of application in R 285.636.4(c). Private applicators include apiarists who apply restricted use pesticides ~~on~~ TO their own colonies for the management of bee diseases or parasites. Bee disease is defined in section of 1976 PA 412, MCL 286.801. ~~Act No. 412 of the Public Acts of 1976, as amended, being '286.801 of the Michigan Compiled Laws.~~

#### **R 285.636.7 Certificate of competence; credentials; issuance; expiration; renewal; replacement; certification in additional category or method.**

Rule 7. (1) ~~An A QUALIFIED~~ applicant for initial certification or registration ~~who is found to be qualified under the act and these rules~~ shall be issued certification or registration credentials THAT ARE VALID UNTIL DECEMBER 31 OF THE THIRD YEAR AFTER THE YEAR OF ISSUANCE UNLESS THE DIRECTOR SUSPENDS OR REVOKES THE CREDENTIAL. ~~which shall be valid, unless suspended or revoked for cause, until December 31 of the third year following the year of issuance.~~ ~~An A QUALIFIED~~ applicant for recertification or reregistration ~~who is found to be qualified under the act and these rules~~ shall be issued certification or registration credentials THAT ARE VALID UNTIL DECEMBER 31 OF THE THIRD YEAR AFTER EXPIRATION OF THE PREVIOUS CREDENTIAL UNLESS THE DIRECTOR SUSPENDS OR REVOKES THE CREDENTIAL. ~~, which shall be valid, unless suspended or revoked for cause, until December 31 of the third year after expiration of the previously issued credential.~~

(2) Commercial applicator certification and registration credentials shall show the categories and applicable methods of application specified in R 285.636.4(b) and R 285.636.4(c) for which the person has demonstrated competence.

(3) Private applicator certification or registration credentials shall show the applicable methods of application specified in R 285.636.4(c) for which the person has demonstrated competence.

(4) Certification or registration may be renewed by applying on a form prescribed by the director, by submitting the application fee prescribed by the act, and upon a determination that the applicant has met the qualifications established by the act and these rules. To assure that certified or registered applicators maintain competence in the use of pesticides, the director, as a condition for renewal, may require verifiable attendance at designated training meetings or may require an examination on changes in pesticide application technology or use patterns pertinent to the certification or registration category, or may require both.

(5) A CERTIFIED OR REGISTERED APPLICATOR WHO DESIRES CERTIFICATION OR REGISTRATION IN AN ADDITIONAL CATEGORY MAY APPLY ON A FORM PRESCRIBED BY THE DIRECTOR. THE APPLICATION FORM SHALL BE ACCOMPANIED BY THE APPLICATION FEE ESTABLISHED BY THE ACT. UPON SATISFACTORY COMPLETION OF THE EXAMINATION OR TRAINING FOR THE CATEGORY OR METHOD AS REQUIRED BY ~~THE PROVISIONS OF~~ R 285.636.6, AND UPON SURRENDER OF THE CERTIFICATION OR REGISTRATION CREDENTIAL, THE APPLICANT SHALL BE ISSUED A REPLACEMENT CERTIFICATION OR REGISTRATION CREDENTIAL THAT SHOWS THE ADDITIONAL CATEGORY AND THE EXPIRATION DATE OF THE REPLACED CREDENTIAL.

(6) AN APPLICANT WHO DESIRES TO RENEW ~~THEIR~~ HIS OR HER CREDENTIAL BY SEMINAR SHALL EARN ALL RENEWAL CREDITS ~~PRIOR TO~~ BEFORE THE EXPIRATION OF THE CREDENTIAL.

### **R 285.636.8 Registered applicator standards.**

Rule 8. (1) All registered applicators shall demonstrate, by examination, practical knowledge of the basic principles and practices of pest management, pesticide label comprehension, and the safe use of pesticides as set forth in ~~the provisions of~~ R 285.636.4 and receive verifiable training as set forth in ~~the provisions of~~ subrule (3) of this rule.

(2) All of the following general standards will be the basis of the examination:

(a) Appropriate procedures for the application of pesticides, including both of the following:

(i) Knowledge of various formulations of pesticides and proper methods of application.

(ii) The relationship of pesticide application to proper use, unnecessary use, and misuse.

(b) Label and labeling comprehension, including all of the following:

(i) The general format and terminology of pesticide labels and labeling.

(ii) Understanding instructions, classifications, warnings, terms, symbols, and other information commonly appearing on pesticide labels.

(iii) Understanding the requirements of pesticide use consistent with the label.

(c) Pest identification and pest management, including both of the following:

(i) Knowledge of general insect, disease, and weed characteristics used for identification.

(ii) Integrated pest management and its techniques.

- (d) Safety factors, including all of the following:
  - (i) Pesticide toxicity and common routes of exposure.
  - (ii) Precautions necessary to prevent injury to applicators and other individuals, including the appropriate use of protective clothing and equipment.
  - (iii) Symptoms of pesticide poisoning.
  - (iv) First aid and means of obtaining emergency medical treatment in case of an accident.
- (e) The potential environmental consequences of the use and misuse of pesticides as they may be influenced by such factors as environmental fate of pesticides and their effect on nontarget organisms.
- (f) Applicable state and federal laws and regulations.
- (3) Training programs for commercial registered applicators shall be approved by the director, be category-specific, and, include training in all of the following areas:
  - (a) Relevant and associated pests commonly encountered by the applicator.
  - (b) The environmental fate of pesticides.
  - (c) Pesticide formulations in use as well as application equipment, equipment calibration, and methods of application.
  - (d) Safety procedures to protect nontarget organisms.
  - (e) Integrated pest management principles.
  - (f) Container disposal and storage.
  - (g) Worker safety.
- (4) Noncertified or nonregistered applicators may apply general use pesticides as part of an approved training program FOR A PERIOD OF 2 CONSECUTIVE WEEKS, ~~during his or her first two weeks of training~~ while under the direct supervision of a certified applicator. THE APPROVED TRAINER SHALL NOTIFY THE DIRECTOR WHEN THE 2-WEEK PESTICIDE APPLICATION PERIOD BEGINS USING A FORM AND PROCEDURE APPROVED BY THE DIRECTOR. NONCERTIFIED AND NONREGISTERED APPLICATORS SHALL NOT APPLY PESTICIDES UNTIL THE DIRECTOR HAS RECEIVED THE NOTIFICATION PRESCRIBED IN THIS RULE. THE NONCERTIFIED OR NONREGISTERED APPLICATOR SHALL HAVE IN HIS OR HER POSSESSION A COPY OF THE NOTIFICATION FORM AND DISPLAY THE COPY TO THE DIRECTOR UPON REQUEST.
- (5) Training programs for private registered applicators shall be approved by the director and may include training courses as offered by the cooperative extension service that address relevant topics.

**R 285.636.10 RESCINDED. ~~Restricted-use pesticides applied by registered applicators.~~**

Rule 10. ~~Registered applicators shall not apply restricted-use pesticides, except as provided in either of the following provisions:~~

- ~~(a) The registered applicator applies restricted-use pesticides under the direct supervision of a certified applicator.~~
- ~~(b) The registered applicator has applied a particular restricted-use pesticide in a specific category of application under the direct supervision of a certified applicator for the specific number of hours required by the director. The required number of hours will be based upon the pesticide, sensitivity of the application site, and the target pest.~~

~~Such authorization shall be made in writing on the department's form and shall be signed by the director's representative, the registered applicator, and his or her employer. The certified applicator who is responsible for the supervision of the registered applicator shall request this exclusion on a case-by-case basis. This specific exemption shall be valid only during the registered applicator's initial registration period.~~  
 (c) ~~The application is not prohibited by the pesticide label, the act, or rules promulgated under this act.~~

### **R 285.636.12 Application for license.**

Rule 12. (1) Application for a license to engage in the business of applying pesticides shall be made on a form prescribed by the director. The applicant shall be a certified applicator or shall employ a certified applicator to apply, or supervise the application of, pesticides. The certified applicator named on the license application shall not represent more than 1 licensee or place of business. The licensee shall notify the director of any changes relative to the status of a certified applicator named on the license application.

(2) A license application shall be accompanied by a certificate from an insurance company or an approved surplus lines company authorized to do business in this state which sets forth the insurance limits prescribed in R 285.636.14. The certificate shall be in effect for the entire license period or for the generally recognized time period in which the pesticide applications may occur.

(3) When an assumed name is used on an application, THEN the application for A ~~an~~ original license shall be accompanied by a registered assumed name certificate.

(4) A foreign corporation shall ATTACH TO THE LICENSE APPLICATION ~~obtain~~ a certificate of authority to transact business in the state of Michigan WHICH IS ISSUED from the corporation and securities bureau of the department of ~~commerce~~ CONSUMER AND INDUSTRY SERVICES UNDER 1972 PA 284, MCL 450.1101 ET SEQ. ~~pursuant to the provisions of Act No. 284 of the Public Acts of 1972, as amended, being 450.1101 et seq. of the Michigan Compiled Laws.~~

(5) A new licensee shall comply with the experience requirements set forth in section 8313 ~~(a) or (e)~~ of the act. The director shall review and verify the contents of a notarized statement that documents that the applicator has complied with the experience requirements as required by the act. Any false or misleading statements will be cause for license denial, suspension, or revocation.

~~(6) A commercial applicator who, after initial certification or registration, desires certification or registration in an additional category or method of application may apply on a form prescribed by the director. The application form shall be accompanied by the application fee established by the act. Upon satisfactory completion of the examination or training for the category or method as required by the provisions of R 285.636.6, and upon surrender of certification or the registration credential, the applicant shall be issued a replacement certification or registration credential that shows the additional category and the expiration date of the credential replaced.~~

### **R 285.636.15 Commercial applicator records.**

Rule 15. (1) All commercial applicators shall maintain VERIFIABLE records of restricted-use pesticide applications for a period of not less than 3 years following the application. ~~Such~~ THE records shall show all of the following INFORMATION:

(a) The name and EPA REGISTRATION NUMBER ~~concentration~~ of the pesticide applied.

(B) CONCENTRATION OF THE PESTICIDE APPLIED.

~~(b)~~ (C) The amount of pesticides END USE DILUTION applied.

~~(c)~~ (D) The target pest or purpose.

~~(d)~~ (E) The date the pesticide was applied.

~~(e)~~ (F) The address or location of pesticide application.

~~(f)~~ (G) ~~Where applicable~~, The method and the rate of application.

(2) All commercial applicators shall maintain VERIFIABLE records of general-use pesticide applications for a period of not less than 1 year following the application. Such records shall show all of the following INFORMATION:

(a) The name and EPA REGISTRATION NUMBER ~~concentration~~ of the pesticide applied.

(B) THE CONCENTRATION OF THE PESTICIDE APPLIED.

~~(b)~~ (C) The amount of pesticides END USE DILUTION applied.

~~(c)~~ (D) The target pest or purpose.

~~(d)~~ (E) The date the pesticide was applied.

~~(e)~~ (F) The address or location of pesticide application.

~~(f)~~ (G) ~~Where applicable~~, The method and the rate of application.

(3) IT IS THE RESPONSIBILITY OF THE EMPLOYER OF THE COMMERCIAL APPLICATOR TO MAINTAIN THE VERIFIABLE RECORD AT THE PLACE OF BUSINESS. The ~~applicator's~~ APPLICATION records shall be made available, upon request, to an authorized representative of the director during normal business hours.

---

NOTICE OF PUBLIC HEARING

---

**DEPARTMENT OF AGRICULTURE**  
**PESTICIDE AND PLANT PEST MANAGEMENT DIVISION**  
**REGULATION 636, PESTICIDE APPLICATORS**

**ORR # 2001-025**

(By authority conferred on the director of the department of agriculture by section 8325 of 1994, PA 451, MCL 324.8325)

A public hearing on proposed amendments to Regulation 636, Pesticide Applicators, will be held on Tuesday, December 18, 2001, beginning at 9:00 a.m. in Upper Parking Level, Conference Room #4, Ottawa Building, 611 W. Ottawa, Lansing, Michigan.

The proposed amendments for pesticide applicators include:

Reducing the certification application period to allow for more timely closure of pending applications.

Adding certification categories for small animal pest management and sewer line root control, rescinding contractual public health pest management and combining fumigation standards.

Development of guidelines for verification of an applicators two-week exemption for training.

Elimination of Rule 10, which provided special provisions for restricted use pesticide applications by registered applicators.

Clarification of the information required in commercial applicator records and how this information must be maintained.

The department invites all interested parties to present their views regarding the proposed amendments either orally or in writing. Those wishing to testify in person at the hearing are requested to bring written statements with them. Written comments must be received by the Pesticide and Plant Pest Management Division by 5:00 p.m., Friday December 21, 2001.

Persons needing accommodations for effective participation in the meeting should contact the Pesticide and Plant Pest Management Division at (517) 335-6838, a week in advance to request mobility, visual, hearing or other assistance.

The proposed amendments are available on the Internet at <http://www.state.mi.us/orr/rules/depart.htm> under Agriculture (identified as 2001-025AC) or a copy can be acquired from the Michigan Department of Agriculture, Pesticide and Plant Pest Management Division, PO Box 30017, Lansing, Michigan 48909, (517) 335-6838, upon request.

Dan Wyant, Director



---

PROPOSED ADMINISTRATIVE RULES

---

**MICHIGAN DEPARTMENT OF AGRICULTURE**

**AGRICULTURE DEVELOPMENT DIVISION**

**REGULATION NO. 351 JULIAN STILLE VALUE-ADDED AGRICULTURAL  
DEVELOPMENT FUND**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State.

(By authority conferred on the department of agriculture by section 2 of 2000 PA 322, MCL 285.302)

**PART 1. GENERAL PROVISIONS**

**R 285.351 Definitions.**

Rule 1. (1) As used in these rules:

- (a) "Act" means sections 1 and 2 of 2000 PA322, MCL 285.301 and 285.302.
- (b) "Applicant" means any one of the following entities that does, or applies to do, value-added agricultural processing or related agricultural production operations, or both, in the State of Michigan
  - (i) An individual.
  - (ii) A farmer-owned cooperative.
  - (iii) A partnership.
  - (iv) A limited liability company.
  - (v) A private or public corporation.
  - (vi) A local unit of government.
- (c) "Application instructions" means the document, which is issued by the department to applicants, and which describes information required to participate in the agricultural development fund program in the given state fiscal year.
- (d) "Creditworthiness" means the ability or capacity to borrow money from a nonpublic source.
- (e) "Current ratio" means current assets divided by current liabilities. This will be used as a measure of short-term financial soundness.
- (f) "Department" means the Michigan department of agriculture.
- (g) "Director" means the director of the department or his or her designee.
- (h) "Equity position" means the difference, expressed in percentage terms, between the total value of the assets of the applicant and the total value of the liabilities of the applicant.
- (i) "Expand" means to provide for new facilities or an addition to existing facilities, new products, and services.

(j) "Feasibility study" means a written study document that consists of an expert analysis of all of the following elements of the proposed venture:

- (i) Economic feasibility.
- (ii) Market feasibility.
- (iii) Technical feasibility.
- (iv) Financial feasibility.
- (v) Management feasibility.

The meaning and use of these elements shall be the same as those of the United States department of agriculture as defined in the guide for completion of feasibility studies, rural development instruction 4279-B, appendix A, adopted on December 23, 1996. The department shall accept and use a feasibility study that has been approved by the United States department of agriculture. A copy of the guide for completion of feasibility studies is available at no cost from either the Michigan Department of Agriculture, Agriculture Development Division, 525 West Allegan, Lansing, Michigan 48909 or the United States Department of Agriculture, Rural Development State Office, 3001 Coolidge Road, Suite 200, East Lansing, Michigan 48823.

(k) "Financial soundness" means the ability of a business entity to operate profitably or remain sustainable over a reasonable time period.

(l) "Grantee" means any applicant who the director has awarded a grant from the agricultural development fund on the project proposal.

(m) "Job" means a direct employment position with the grantee created or retained as a result of the completion of the project and expressed in terms of a full-time equivalent as defined by the United States department of labor.

(n) "Public notification" means 1 or more press releases sent to appropriate Michigan news media outlets and a public posting on the department's web site.

(o) "Project" means a venture or an activity, which is funded or proposed to be funded from the agriculture development fund.

(p) "Risk management" means the level at which the applicant minimizes exposure to financial risk.

(2) Any financial terms or definitions shall be consistent with generally accepted accounting principles, unless otherwise defined in these rules.

(3) The terms defined in the act have the same meanings when used in these rules.

## **R 285.352 Application, submittal, selection criteria, scoring, and decision process.**

Rule 2. (1) The department may conduct a grant program using monies from the agricultural development fund pursuant to the purposes and provisions of the act and may utilize up to 5% of the fund for administrative support of grant processing and compliance. The program shall be a competitive grant program and applicants shall make an application for monies from the fund pursuant to the act and these rules.

(2) An application for a grant from the agricultural development fund shall be made on a form or format prescribed by the department for the purpose or purposes described in the act.

(3) Not less than 60 days before the application deadline, as determined by the director, the department shall make a public notification of the grant program, including information on

the application form and application instructions. The director may indicate certain priority program initiatives or classes of agricultural commodities and products in the application instructions based upon programmatic or funding changes for each fiscal year.

(4) An application for a grant shall be directed into 1 of the following 4 program categories:

(a) Market research and technical assistance for a specific product prepared by an industry consultant who has expertise in the field.

(b) Detailed business plan development that incorporates a specific marketing strategy that is based upon a written feasibility study and specifically outlines the working capital and financial needs, management structure, construction, production, marketing, and distribution needs.

(c) Application and utilization of innovative technology that will enhance and support the commercialization of value-added products.

(d) Facility purchase and construction, including land, site development, utility improvements, transportation installations, telecommunications, and other infrastructure improvements, demolition, buildings, and equipment. The department may apportion available grant funds in any manner for the 4 program categories in the application instructions.

(5) The department may update the application instructions each fiscal year. The department may also issue amended or subsequent application instructions after the initial application deadline based upon priority program initiatives, programmatic, or funding changes in a given fiscal year.

(6) The application review process will proceed as follows:

(a) Upon receipt of an application, the department shall determine if the application is complete or is lacking necessary information. If the application is found to be complete, the department may forward the application, if appropriate, to the agriculture development review committee. If the application is found to be incomplete, the department shall request additional information and study on all or any portion of an application, by written notification to the applicant setting forth the necessary additional information. Until the necessary information is provided to the department, the department shall neither evaluate nor score the incomplete application for possible approval of grant.

(b) The department's determination to approve, modify, or reject a completed application shall be based on the selection criteria and scoring system as set forth in subrules (9) and (10) of this rule. The director may appoint, on a fiscal year basis, an agricultural development review committee for its review and scoring of the applications and advice on the program. The review committee may divide into subcommittees. The review committee or subcommittees shall evaluate and rank all applications based on the selection criteria and scoring system as set forth in subrules (9) and (10) of this rule. The review committee shall be comprised of parties specified in the act. The parties shall have relevant business, management, or professional expertise. A subcommittee of the review committee that is evaluating and ranking applications based on the selection criteria and scoring system shall be made up of nonapplicants and parties who do not have a conflict of interest. Each complete application shall receive a score and rank from the review committee and from the department together with a recommendation to approve, modify, or reject the application.

(c) The department may modify or reject all or any portion of the application if any 1 of the following situations occurs based upon the recommendations of the review committee:

- (i) An applicant fails to submit an application as outlined by the application instructions provided under R285.353(1) or fails to comply with the requirements prescribed in the act.
- (ii) The total estimated revenues available for agricultural development fund projects are exceeded by the sum of all funding that is requested in the applications received for the state fiscal year.
- (iii) The department and agricultural development review committee determines that a proposed project requires further justification.
- (7) An applicant shall notify the department of a proposed change in an initial or amendatory application for federal funds that would require an increase or decrease of the state financial commitment.
- (8) The review and approval process shall be completed within 90 days of the established application deadline.
- (9) An application for a grant shall be evaluated according to all of the following selection criteria:
  - (a) Demonstrated economic and social benefits to in-state producers.
  - (b) Demonstrated economic and social benefits to communities in Michigan.
  - (c) Project leader and management team experience and expertise.
  - (d) Demonstration of a high level of innovation and initiative to benefit producers in Michigan.
  - (e) Financial soundness, credit-worthiness, and risk assessment.
  - (f) Analysis of proposed project in terms of business and market planning.
  - (g) For facility grants, completion of a feasibility study, business plan, and financial plan.
  - (h) Clear project proposal with specific, measurable outcomes.
- (10) Applications shall be ranked according to the following scoring or point system:
  - (a) A score of 0 to 10 points will be awarded based on economic development resulting from the project that impacts in-state producers of specific commodities involved in the project.
  - (b) A score of 0 to 10 points will be awarded based on assessment of the extent to which the project should lead to improvements or retention within the resident/adjacent community, such as higher wages, improved benefits, more jobs, higher tax base, greater economic activity, and use of higher level of skills not typically found in the community.
  - (c) A score of 0 to 10 points will be awarded based on the level of cash matching funds or other written verification of repayment capacity. In-kind contributions shall not be counted as a cash match.

Point allocation:

Proposed project provides more than a 50% match 10

Project provides a 33-50% match 6

Project provides a 25-33% match 4

Project provides a 10-25% match 2

(Note: if project fails to provide a 10% cash match, it is ineligible for grant award.)

- (d) A score of 0 to 25 points will be awarded based on the level of experience, expertise and proven track record the management team possesses.

Point allocation:

Management team has demonstrated prior successes in relevant field 8

Management team includes other partnering entities that bring proven experience to the project 8

Management team possesses sufficient marketing and finance expertise 9

(e) A score of 0 to 15 points will be awarded based upon the assessment of the agricultural development review committee of the level of innovation and initiative that the project outlines. The goal is to find projects that are addressing specific value-added niche opportunities in the marketplace, based upon sufficient demand for the innovation. Clear consumer demand shall be demonstrated vs. commodity demand.

Point allocation:

Project targets a specific niche, value-added, or other market segment 5

Project utilizes innovative technology to increase profitability 5

Project has a closer connection to the end consumer rather than just targeting another agricultural commodity market 5

(f) A score of 0 to 10 points will be awarded for the financial soundness of the project and the minimization of risk.

Point allocation:

Equity position of the applicant is 60% or greater 10

Equity position of the applicant is 50% - 60% 7

Equity position of the applicant is 33% to 50% 5

Equity position of the applicant is less than 33% 2

(g) A score of 0 to 10 points will be awarded based on the project's clear description of purpose.

(h) A score of 0 to 10 will be awarded based on a determination of a priority for the agricultural industry based on the director's determination.

(i) If the grant request is for facility purchase, equipment, and construction category, points will be deducted from the proposal's score if it is determined that the following have not been sufficiently completed:

(i) A detailed marketing plan based on verifiable and useful market research for the product or products has not been completed by a professional market researcher. -20

(ii) A detailed, well-documented and realistic business plan has not been completed. -20

(11) The director of the department shall have final approval of grants made under the act and the department shall provide grants for reimbursement of approved expenses incurred by the grantee which may be divided into partial payments.

### **R 285.353 Eligibility and documentation required.**

Rule 3.(1) An applicant for funding shall complete an application containing all of the following:

(a) A clear description of a proposed project or projects stating how the project is designed to establish, retain, expand, attract, or develop value-added agricultural processing and related agricultural production operations in this state.

(b) Documentation that the applicant or its designated business venture has been established according to state law, is in good standing, and is not in default of any federal, state, or local taxes.

(c) Adopted bylaws and articles of incorporation or other articles of organization as appropriate for business structure that indicated the specific duties, functions, and powers of the applicant.

- (d) A statement of economic and social benefits to the Michigan producers, the local community, and the state of Michigan.
- (e) A detailed proposal for specific use of the funds consistent with program focus and a detailed budget including capital costs, working capital, operating expenses, and revenues.
- (f) Measurable outcomes of the project. All jobs that are created or retained shall be clearly a direct result of the project. The number of jobs created or retained shall be evidenced by a written commitment from the business to be assisted or others directly impacted.
- (g) Documentation of guaranteed 10% matching funds shall be provided from nonstate cash funds.
- (h) Analysis of the proposed project in terms of, and relative to, risk, business and market planning, financial soundness, and creditworthiness.
- (i) Trade secrets, commercial, or financial information voluntarily provided to the department shall be provided to the department upon a promise of confidentiality as authorized by the director, and are exempt from disclosure under 1976 PA442, MCL 15.321 et seq.
- (j) Identification of project leaders, management, and marketing team and their expertise and experience in this type of project.
- (k) Written support from the local community, suppliers, representatives of the Michigan food and agricultural industry, and others.
- (l) Information on previously completed feasibility studies.
- (m) An applicant seeking funds for land or property acquisition and assembly, building construction or expansion, demotion, purchase of equipment or related facilities and other improvements shall include a detailed marketing strategy backed by sound market research, a detailed business development plan, and identification of sufficient capital and operating funds prepared by a recognized financial institution which is in good standing in Michigan and which is nationally regulated.
- (2) A cash match of not less than 10% of the grant by the applicant or other repayment guarantee with a dedicated funding source such as a certificate of deposit is required before a grant can be awarded.
- (3) The director shall authorize department staff and members of the agricultural development review committee to sign and abide by confidentiality statements for trade secrets or commercial or financial information voluntarily provided to the department by applicants upon a promise of confidentiality as authorized by the director, and is exempt from disclosure under 1976 PA442, MCL 15.231 et seq.

## **PART 2. REPORTING AND COMPLIANCE REQUIREMENTS**

### **R 285.354 Financial reporting and compliance requirements.**

Rule 4. (1) The director of the department may impose fiduciary obligations upon a recipient of a grant, including performance bonding, and may impose conditions upon the receipt and expenditure of the grant money based on the financial stability of the recipient. A contractual grant agreement shall be entered into between the grantee and the department.

(2) A grantee shall provide to the department an annual financial and compliance audit report and management letter within 120 calendar days from the end of the grantee's fiscal

year. The report shall include a response certified by an independent, certified public accountant in accordance with the department's and Michigan department of treasury's audit guides. The department may grant an extension of up to 60 days upon receipt of a written request if the department determines the grantee has made a good faith effort to provide the necessary documentation. The grantee shall be required to provide the annual report for 2 years after the completion of the project.

(3) Failure to comply with the audit section of these rules may result in the withholding of agriculture development fund grants for any purpose or other conditions the director may impose upon the receipt and expenditure of grant money as stated in Section 2(6) of the act.

(4) The department may audit a recipient of funds in accordance with the contractual grant agreement entered into by the grantee and the department.

(5) For the duration of any funded project time period, the grantee shall provide semiannual progress reports. A report shall outline all of the following:

(a) Stated goals that have been accomplished.

(b) Documentation of all matching funds used.

(c) Any project modifications that have been made during the funding period.

The report shall be submitted within 6 months of grant award notification and every 6 months thereafter. Based on the nature of the grant, the director has discretion to allow annual reports instead of semiannual reports. Unless otherwise designated by the director, the grantee shall be required to provide the reports for 2 years after completion of the project. The director may waive the 2-year report requirement and may instead request 1 final completion report if the project has been completed and the director determines that the stated goals have been accomplished.

(6) Upon completion of a funded project, a grant recipient shall provide a complete project summary including performance criteria met and additional pertinent information. A report shall be submitted within 45 days of project completion.

(7) Upon completion of a funded project, a grant recipient shall provide a complete financial summary, of the project. An itemized list of expenses and income from the project as well as verification of matching funds is required in the report. The report shall be submitted within 45 days of project completion.

(8) If semiannual reports or annual reports are not provided to the department, then the director, after reasonable notice to the grant recipient, may withhold any remaining portion of the grant until the report has been provided. If the recipient fails to provide the required reports, then the director, in the interest of maintaining the integrity of the grant program, may terminate any remaining portion of the grant award. Grant reimbursement may be required if final summary or financial reports are not provided and the director determines that the stated goals of the grant have not been accomplished or there has not been documentation on how grant funds have been used.

### **R 285.355 Procedures for adjusting or withholding funds.**

Rule 5. (1) The department may adjust or withhold project funds that are awarded under the act or may adjust project elements or alter the project scope under any of the following circumstances:

- (a) Matching funds from governmental units or other persons that are necessary for the completion of the project are not awarded to the recipient by the end of the following fiscal year in which the project was approved.
  - (b) The actual funds available in the act are below the estimated funds available upon which the grant was approved.
  - (c) The actual cost of the project varies from the estimated costs on which a project was approved.
  - (d) A recipient fails to comply with the act, these rules, or orders of the director.
- (2) The department shall notify a grantee, by certified mail, of a department-initiated action to withhold funds for noncompliance. The notice shall clearly set forth the reasons for the proposed action. The recipient shall have 30 days from the date of issuance of the notice to respond or undertake corrective action. The department may grant an extension if the recipient files a written appeal with the department.
- (3) If, within 45 days after the date that the notice of intent to withhold was issued, the recipient has not corrected the reason for the withholding and notified the department of that correction; the recipient has not been granted an extension, or has not appealed the action, in writing, to the department and been granted a waiver, then the department shall send the applicant, by certified mail, a notification that funds are being withheld. Withholding of funds shall occur automatically after the notice of withholding is mailed.

**R 285.356 Contractual agreements.**

Rule 6. A contractual grant agreement between the department and the grantee is required for projects authorized under the act. Based on the financial stability of the recipient, the director of the department may impose fiduciary obligations upon a recipient of a grant within the contract, including performance bonding, and may impose conditions upon the receipt and expenditure of the grant money.



---

NOTICE OF PUBLIC HEARING

---

**DEPARTMENT OF AGRICULTURE**

**AGRICULTURE DEVELOPMENT DIVISION**

**ORR # 2001-027**

The Michigan Department of Agriculture (MDA), Agriculture Development Division (AgD) will conduct a public hearing on proposed new rules promulgated pursuant to Sections 1 and 2 of Act Number 322 of the Public Acts of 2000, being §285.301, et seq. of the Michigan Compiled Laws. New rules proposed to conduct a grant program using monies from the agricultural development fund to establish, retain, expand, attract or develop value-added agricultural processing and related agricultural production operation(s) in this state.

The public hearing will be held on Tuesday, November 20, 2001 beginning at 1:30 p.m. to 3:30 p.m. in the State of Michigan Library, Lake Ontario Room, 717 West Allegan Street, Lansing Michigan.

The proposed rules (identified as ORR 2001-027AC) can be downloaded from the Internet through the Office of Regulatory Reform at <http://www.migov.state.mi.us/rules/orr>. Copies of the proposed rules may be obtained by contacting:

Michigan Department of Agriculture  
Agriculture Development Division (AgD), 525 W. Allegan Street  
P.O. Box 30017, Lansing, MI 48909  
Telephone: 517-241-2178 or Fax: 517-335-0628  
Email: [craigr@state.mi.us](mailto:craigr@state.mi.us)

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend, may submit comments in writing to the Agriculture Development Division at the above address. Written comments must be received by November 27, 2001.

Persons needing accommodations for effective participation in the meeting should contact AgD at 517-241-2178 a week in advance to request mobility, visual, hearing, or other assistance.

Promulgation of these rules is pursuant to the authority conferred on the Director of Sections 1 and 2 of Act Number 322 of the Public Acts of 2000, being § 285.301, et seq. of the Michigan Compiled Laws. These rules become effective 15 days after filing with the Secretary of State.

Dan Wyant, Director

---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR QUALITY DIVISION**

**AIR POLLUTION CONTROL**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of environmental quality by sections 5503 and 5512 of 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order No. 1995-18, MCL 324.99903)

R 336.1915 and R 336.1916 are added to the Michigan Administrative Code as follows:

**PART 9. EMISSION LIMITATIONS AND PROHIBITIONS--MISCELLANEOUS**

**R 336.1915 ENFORCEMENT DISCRETION IN INSTANCES OF EXCESS EMISSIONS RESULTING FROM MALFUNCTION, START-UP, OR SHUTDOWN.**

RULE 915. (1) IN DETERMINING WHETHER THE DEPARTMENT WILL PURSUE ENFORCEMENT AGAINST A PERSON, THE DEPARTMENT SHALL CONSIDER EVIDENCE THAT THE EMISSION VIOLATIONS RESULTED FROM A MALFUNCTION, START-UP, OR SHUTDOWN.

(2) IF THE DEPARTMENT DETERMINES THAT THE EMISSION VIOLATIONS RESULTED FROM A MALFUNCTION, START-UP, OR SHUTDOWN, THEN THE DEPARTMENT MAY USE ENFORCEMENT DISCRETION WHEN RESOLVING THE EMISSION VIOLATIONS BASED UPON SUBRULES (3) AND (4) OF THIS RULE, AS APPLICABLE.

(3) A PERSON MAY SUBMIT EVIDENCE TO THE DEPARTMENT FOR ITS CONSIDERATION IN DETERMINING THAT THE EMISSION VIOLATIONS RESULTED FROM A MALFUNCTION. THE EVIDENCE SHALL DEMONSTRATE ALL OF THE FOLLOWING, AS APPLICABLE:

(A) THE EXCESS EMISSIONS WERE A RESULT OF A SUDDEN AND UNAVOIDABLE BREAKDOWN OF PROCESS OR CONTROL EQUIPMENT, BEYOND THE REASONABLE CONTROL OF THE PERSON.

(B) THE AIR POLLUTION CONTROL EQUIPMENT, PROCESS EQUIPMENT, AND PROCESSES WERE MAINTAINED AND OPERATED IN A MANNER CONSISTENT WITH GOOD PRACTICE FOR MINIMIZING EMISSIONS, TO THE MAXIMUM EXTENT PRACTICABLE.

(C) REPAIRS WERE MADE IN AN EXPEDITIOUS FASHION WHEN THE PERSON KNEW OR SHOULD HAVE KNOWN THAT APPLICABLE EMISSION LIMITATIONS WERE BEING EXCEEDED. TO THE EXTENT PRACTICABLE, OFF-SHIFT LABOR AND OVERTIME SHALL HAVE BEEN UTILIZED TO ENSURE THAT THE REPAIRS WERE MADE EXPEDITIOUSLY.

(D) THE AMOUNT AND DURATION OF EXCESS EMISSIONS, INCLUDING ANY BYPASS, WERE MINIMIZED TO THE MAXIMUM EXTENT PRACTICABLE DURING PERIODS OF THE EMISSIONS.

(E) ALL REASONABLY POSSIBLE STEPS WERE TAKEN TO MINIMIZE THE IMPACT OF THE EXCESS EMISSIONS ON AMBIENT AIR QUALITY.

(F) THE EXCESS EMISSIONS RESULTING FROM THE MALFUNCTION WERE NOT PART OF A RECURRING PATTERN INDICATIVE OF INADEQUATE DESIGN, OPERATION, OR MAINTENANCE.

(G) THE MALFUNCTION WAS AN INFREQUENT EVENT AND WAS NOT REASONABLY PREVENTABLE.

(H) THE PERSON RESPONSIBLE FOR OPERATING THE SOURCE OF AIR CONTAMINANTS HAS A MALFUNCTION ABATEMENT PLAN, CONSISTENT WITH THE REQUIREMENTS SET FORTH IN R 336.1911(2) AND WITH BOTH OF THE FOLLOWING PROVISIONS:

(I) ANY MALFUNCTION ABATEMENT PLAN DEVELOPED IN ACCORDANCE WITH R 336.1911(2) SHALL BE MAINTAINED ONSITE AND AVAILABLE FOR INSPECTION, UPON REQUEST, BY THE DEPARTMENT FOR THE LIFE OF THE EMISSION UNIT OR UNITS. THE DEPARTMENT MAY REQUIRE THAT THE PERSON RESPONSIBLE FOR THE MALFUNCTION ABATEMENT PLAN MAKE REVISIONS TO THE PLAN. THE PERSON SHALL REVISE THE MALFUNCTION ABATEMENT PLAN WITHIN 45 DAYS AFTER A REQUEST BY THE DEPARTMENT. THE REVISED MALFUNCTION ABATEMENT PLAN SHALL BE DEVELOPED IN ACCORDANCE WITH R 336.1911(2).

(II) IF THE MALFUNCTION ABATEMENT PLAN FAILS TO ADDRESS OR INADEQUATELY ADDRESSES AN EVENT THAT MEETS THE CHARACTERISTICS OF A MALFUNCTION AT THE TIME THE PLAN IS INITIALLY DEVELOPED, THEN THE PERSON SHALL REVISE THE MALFUNCTION ABATEMENT PLAN WITHIN 45 DAYS AFTER THE EVENT OCCURS. THE REVISED MALFUNCTION ABATEMENT PLAN SHALL BE DEVELOPED IN ACCORDANCE WITH R 336.1911(2).

(I) THE EXCESS EMISSIONS PRESENTING AN IMMINENT THREAT TO HUMAN HEALTH, SAFETY, OR THE ENVIRONMENT WERE REPORTED TO THE DEPARTMENT AS SOON AS POSSIBLE. UNLESS OTHERWISE SPECIFIED IN THE FACILITY'S PERMIT, OTHER EXCESS EMISSIONS WERE REPORTED AS PROVIDED IN R 336.1912. IF REQUESTED BY THE DEPARTMENT, A PERSON SHALL SUBMIT A FULL WRITTEN REPORT THAT INCLUDES THE KNOWN CAUSES, THE CORRECTIVE ACTIONS TAKEN, AND THE PREVENTIVE MEASURES TO BE TAKEN TO MINIMIZE OR ELIMINATE THE CHANCE OF RECURRENCE.

(J) THE ACTIONS DURING THE PERIOD OF EXCESS EMISSIONS WERE DOCUMENTED BY CONTEMPORANEOUS OPERATING LOGS OR OTHER RELEVANT EVIDENCE AS PROVIDED BY R 336.1912.

(K) ANY INFORMATION SUBMITTED TO THE DEPARTMENT UNDER THIS SUBRULE SHALL BE PROPERLY CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF R 336.1912.

(4) A PERSON MAY SUBMIT EVIDENCE TO THE DEPARTMENT FOR ITS CONSIDERATION IN DETERMINING THAT THE EMISSION VIOLATIONS RESULTED FROM A START-UP OR SHUTDOWN. THE EVIDENCE SHALL BE BASED UPON SUBRULE (3)(B), (D), (E), (I), (J), AND (K) OF THIS RULE, AND R 336.1912, AS APPLICABLE.

(5) FOR AN EMISSION UNIT OR UNITS SUBJECT TO STANDARDS AND LIMITATIONS PROMULGATED PURSUANT TO SECTION 111 OR 112 OF THE CLEAN AIR ACT, THE START-UP, SHUTDOWN, OR MALFUNCTION PROVISIONS OF THE APPLICABLE REQUIREMENTS WITHIN SECTION 111 OR 112 SHALL APPLY.

(6) NOTHING IN THIS RULE SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE DEPARTMENT TO SEEK INJUNCTIVE RELIEF OR TO ENFORCE THE PROVISIONS OF THE ACT AND THE REGULATIONS PROMULGATED UNDER THE ACT.

**R 336.1916 AFFIRMATIVE DEFENSE FOR EXCESS EMISSIONS DURING START-UP OR SHUTDOWN.**

RULE 916. (1) THE PERSON OPERATING A SOURCE WITH EMISSIONS IN EXCESS OF AN APPLICABLE EMISSION LIMITATION DUE TO START-UP OR SHUTDOWN MAY CLAIM AN AFFIRMATIVE DEFENSE TO AN ENFORCEMENT PROCEEDING, EXCLUDING A JUDICIAL ACTION SEEKING INJUNCTIVE RELIEF, IF THE PERSON HAS COMPLIED WITH THE REPORTING REQUIREMENTS OF R 336.1912 AND HAS DEMONSTRATED ALL OF THE FOLLOWING:

(A) THE PERIODS OF EXCESS EMISSIONS THAT OCCURRED DURING START-UP OR SHUTDOWN WERE SHORT AND INFREQUENT AND COULD NOT HAVE BEEN PREVENTED THROUGH CAREFUL PLANNING AND DESIGN.

(B) THE EXCESS EMISSIONS THAT OCCURRED DURING START-UP OR SHUTDOWN WERE NOT PART OF A RECURRING PATTERN INDICATIVE OF INADEQUATE DESIGN, OPERATION, OR MAINTENANCE.

(C) THE EXCESS EMISSIONS CAUSED BY A BYPASS (AN INTENTIONAL DIVERSION OF CONTROL EQUIPMENT) WERE UNAVOIDABLE TO PREVENT LOSS OF LIFE, PERSONAL INJURY, OR SEVERE PROPERTY DAMAGE.

(D) THE FACILITY WAS OPERATED AT ALL TIMES IN A MANNER CONSISTENT WITH GOOD PRACTICE FOR MINIMIZING EMISSIONS.

(E) THE FREQUENCY AND DURATION OF OPERATING IN START-UP OR SHUTDOWN MODE WERE MINIMIZED TO THE MAXIMUM EXTENT PRACTICABLE.

(F) ALL REASONABLY POSSIBLE STEPS WERE TAKEN TO MINIMIZE THE IMPACT OF THE EXCESS EMISSIONS ON AMBIENT AIR QUALITY.

(G) ALL EMISSION MONITORING SYSTEMS WERE KEPT IN OPERATION IF AT ALL POSSIBLE.

(H) THE ACTIONS DURING THE PERIOD OF EXCESS EMISSIONS WERE DOCUMENTED BY CONTEMPORANEOUS OPERATING LOGS OR OTHER RELEVANT EVIDENCE AS PROVIDED BY R 336.1912.

(I) EXCESS EMISSIONS PRESENTING AN IMMINENT THREAT TO HUMAN HEALTH, SAFETY, OR THE ENVIRONMENT WERE REPORTED TO THE DEPARTMENT AS SOON AS POSSIBLE. UNLESS OTHERWISE SPECIFIED IN THE FACILITY'S PERMIT, OTHER EXCESS EMISSIONS WERE REPORTED AS PROVIDED IN R 336.1912. IF REQUESTED BY THE DEPARTMENT, A PERSON SHALL SUBMIT A FULL WRITTEN REPORT THAT INCLUDES THE KNOWN CAUSES, THE CORRECTIVE ACTIONS TAKEN, AND THE PREVENTIVE MEASURES TO BE TAKEN TO MINIMIZE OR ELIMINATE THE CHANCE OF RECURRENCE.

(J) ANY INFORMATION SUBMITTED TO THE DEPARTMENT UNDER THIS SUBRULE SHALL BE PROPERLY CERTIFIED IN ACCORDANCE WITH THE PROVISIONS OF R 336.1912.

(2) THIS AFFIRMATIVE DEFENSE DOES NOT APPLY WHEN A SINGLE EMISSION UNIT, OR MULTIPLE EMISSION UNITS AT A STATIONARY SOURCE, CAUSES AN EXCEEDANCE OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS OR ANY APPLICABLE PREVENTION OF SIGNIFICANT DETERIORATION INCREMENT.

(3) IF THE PROXIMATE CAUSE OF THE EXCESS EMISSIONS WHICH OCCURRED DURING ROUTINE START-UP OR SHUTDOWN PERIODS WAS DUE TO A MALFUNCTION, THEN, ABSENT ANY INTERVENING ACTS OR SUPERSEDING CAUSES, THE INSTANCES SHALL BE TREATED AS MALFUNCTIONS IN ACCORDANCE WITH R 336.1915.

(4) NOTHING IN THIS RULE SHALL BE CONSTRUED TO LIMIT THE AUTHORITY OF THE DEPARTMENT TO SEEK INJUNCTIVE RELIEF OR TO ENFORCE THE PROVISIONS OF THE ACT AND THE REGULATIONS PROMULGATED UNDER THE ACT.

---

NOTICE OF PUBLIC HEARING

---

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR QUALITY DIVISION**

**ORR # 2001-040, 2001-059**

The Michigan Department of Environmental Quality (DEQ), Air Quality Division, will conduct a public hearing on proposed administrative rules promulgated pursuant to Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451); R 336.1102, R 336.1104, R 336.1105, R 336.1107, R 336.1108, R 336.1113, R 336.1118, R 336.1120, R 336.1915, and R 336.1916. The addition of R 336.1915 and R 336.1916 will provide companies with a protocol for providing evidence to the DEQ that the emission violations resulted from a malfunction, start-up, or shutdown. The DEQ will use the evidence in the determination of whether to use enforcement discretion. The rules will also provide companies with an affirmative defense against state enforcement actions for excess emissions that arise during certain start-up and shutdown episodes if practices to reduce the emissions are followed. In addition, there are proposed changes to the definitions for “excess emissions” and “malfunctions,” R 336.1105 and R 336.1113. The remainder of the proposed revisions are administrative changes to update the rules in accordance with Executive Orders, make corrections, and update adoptions by reference.

The public hearing will be held on December 3, 2001, at 10:00 a.m., in the Air Quality Division Conference Room, Constitution Hall, 3<sup>rd</sup> floor, 525 West Allegan Street, Lansing, Michigan.

Copies of the proposed rules (ORR 2001-040EQ and 2001-059EQ) are available for inspection at all Air Quality Division offices or on the Internet at <http://www.deq.state.mi.us/aqd>. These rules can also be downloaded from the Internet through the Office of Regulatory Reform at <http://www.state.mi.us/orr>. Copies of the rules may also be obtained by contacting the Lansing office at:

Air Quality Division  
Michigan Department of Environmental Quality  
P.O. Box 30260  
Lansing, Michigan 48909-7760  
Phone: 517-373-7045  
Fax: 517-373-1265  
E-Mail: [halbeism@Michigan.gov](mailto:halbeism@Michigan.gov)

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to the address above. Written comments must be received by December 3, 2001.

Persons needing accommodations for effective participation in the meeting should contact the Air Quality Division at 517-373-7045 one week in advance to request mobility, visual, hearing, or other assistance.

This notice of public hearing is given in accordance with Sections 41 and 42 of Michigan's Administrative Procedures Act, 1969 PA 306, as amended, being Sections 24.241 and 24.242 of the Michigan Compiled Laws. Administration of the rules is by authority conferred on the Director of the DEQ by Sections 5503 and 5512 of Act 451, being Sections 324.5503 and 324.5512 of the Michigan Compiled Laws, and Executive Order 1995-18. These rules will become effective seven days after filing with the Secretary of State.

---

Dennis M. Drake, Chief  
Air Quality Division



---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF AGRICULTURE**

**FINANCE AND TECHNOLOGY DIVISION**

**REGULATION NO. 808. PAYMENT OF BREEDER'S AWARDS**

Filed with the Secretary of State on  
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the director of agriculture by section 20 of Act No. ~~27~~ **279** of the Public Acts of ~~1959~~ **1995**, as amended, being §431.320 of the Michigan Compiled Laws)

**R 285.808.1 Definitions.**

Rule 1. As used in these rules:

- (a) "Breeder" means a person or persons domiciled in Michigan and owning a mare at the time of breeding.
- (b) "Director" means the director of the Michigan department of agriculture.
- (c) "Domicile" means the fixed, permanent, and principal home to which a person intends to return.
- (d) "Fair" means a county, district, community, or 4-H fair; ~~the Upper Peninsula state fair;~~ and any other state fair in Michigan which has been approved by the director to conduct harness horse races during the fair.
- (e) "Fairs and racing division" means the fairs and racing division of the Michigan department of agriculture.
- (f) "Gross purse" means the total dollar amount raced for in each individual heat of racing.
- (g) "Lessee" means a person who is domiciled in Michigan and who leases a stallion which has been recorded with the U.S.T.A. register as the lessee of a horse. A copy of the lease shall be filed with the fairs and racing division.
- (h) "Licensed racetrack" means an association licensed by the Michigan racing commissioner to conduct harness horse races in Michigan.
- (i) "Michigan-bred horse" means a horse which is from a Michigan-owned standardbred mare at the time of breeding and which is sired by a Michigan-owned or leased standardbred stallion, duly registered with the fairs and racing division, ~~that did not service a mare at any location outside of Michigan during the calendar year in which service occurred.~~
- (j) "Owner" means the person or persons domiciled in Michigan and recorded with the U.S.T.A. register.
- (k) "Person" means an individual, partnership, association, or corporation.
- (l) "U.S.T.A." means the United States trotting association.

**R 285.808.1a Determination of domicile.**

Rule 1a. Factors to be considered in determining domicile are as follows:

- (a) Voting registration or alien registration showing a Michigan address.
- (b) Federal income tax return showing a Michigan address.
- (c) State income tax return showing a Michigan address.

**R 285.808.2 Breeders' awards.**

Rule 2. (1) The director shall pay a breeders' award, in an amount ~~of~~ NOT TO EXCEED 10% of the gross purse, to the breeder of a Michigan-bred horse each time that horse wins at a fair or licensed racetrack in Michigan.

(2) Breeders' award are not assignable and are not inheritable, and the director is under no obligation to pay the awards other than as provided in these rules.

(3) Breeders' awards shall only be payable for wins after the date the mare is properly registered with the fairs and racing division.

**R 285.808.2a Registration.**

Rule 2a. (1) To receive payment of a breeders' award, a standardbred mare shall have been registered by each owner with the fairs and racing division before a win.

(2) Standardbred stallions shall be registered by each owner or lessee with the fairs and racing division by January 1 of the year in which that stallion will be standing at service in Michigan for eligibility to qualify for breeders' awards. A copy of the lease agreement shall accompany the registration for a leased stallion.

(3) A newly acquired stallion, which has not been in Michigan for breeding purposes before January 1 of a given year and which has not serviced a mare after December 31 of the preceding year, shall be registered with the department of agriculture before servicing a mare if the stallion's get is to be eligible for breeders' awards.

**R 285.808.3 Provision of copies of race programs to director by racing associations; provision of programs and race sheets to director by secretary of fair; burden of proof with respect to eligibility.**

Rule 3. (1) Licensed racing associations shall provide the director with copies of each day's race program at least once each week. The winner of each race shall be checked on the program and shall be certified as being the true winner.

(2) The secretary of the fair shall provide the director with copies of each day's race program, together with the harness horse race result sheet. (Form FF-18), for the fair's races. The winner of each race shall be checked on the program and shall be certified as being the true winner.

(3) If the eligibility of a breeder to receive a breeder's award is questioned, the burden of proving that the horse is a Michigan-bred horse or is in compliance with these rules rests with the breeder or breeders.

**R 285.808.4 Rescinded.**

---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF AGRICULTURE**

**FINANCE AND TECHNOLOGY DIVISION**

**REGULATION NO. 812. STATE AID PURSE SUPPLEMENT FOR HARNESS  
HORSE RACING AND PARI-MUTUEL TRACKS AT FAIRS**

Filed with the Secretary of State on  
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the department of agriculture by sections **17, 18, 19 and 20** of Act No. ~~327~~ **279** of the Public Acts of ~~1980~~ **1995**, as amended, being § 431.317 – 431.320 of the Michigan Compiled Laws)

**R 285.812.1 Definitions.**

Rule 1. As used in these rules:

"ADVISORY COMMITTEE" MEANS A COMMITTEE TO ASSIST THE DIRECTOR IN DESIGNATING THE RACES AND DETERMINING THE NUMBER, LOCATION, TIME, CONDITIONS, AND AMOUNT OF THE STATE PURSE SUPPLEMENTS FOR EACH RACE.

(b) "Department" means the Michigan department of agriculture.

(c) "Director" means the director of the department.

(d) "Domicile" means the fixed, permanent, and principal home to which a person intends to return.

(e) "Fair" means a county, district, community, or 4-H fair; ~~the Upper Peninsula state fair~~; and any other state fair that has been approved by the director to conduct harness horse races during the fair.

(f) "Licensed pari-mutuel track" means a facility that is owned by a person who is licensed by the office of racing commissioner to conduct standardbred races in Michigan.

(g) "Owner" means a person or persons who are domiciled in Michigan and who have been recorded with the United States trotting association register as being horse owners.

(h) "Person" means an individual, partnership, association, or corporation.

(i) "Purse offered" means the purse requested by the fair association or licensed pari-mutuel track at the time of application to the department for approval of purse funds.

**R 285.812.1a Determination of domicile.**

Rule 1a. Factors to be considered in determining domicile are as follows:

- (a) Voting registration or alien registration showing a Michigan address.
- (b) Federal income tax return showing a Michigan address.
- (c) State income tax return showing a Michigan address.

**R 285.812.2 Eligibility to receive state purse supplement.**

Rule 2. To be eligible to receive state purse supplements for standardbred horse races that a fair or pari-mutuel track offers, the fair or pari-mutuel track shall conduct races that are designated by the director for state purse supplements under R 285.812.5. A fair shall also file its proposed annual harness horse racing program with the department by February 1 of each year. Director approval of the plan is required. A fair or pari-mutuel racetrack that receives state purse supplements under this rule shall file reports with the department as required by the director.

**R 285.812.3 Presiding judges at fairs.**

Rule 3. (1) ~~A fair shall hire United States trotting association licensed presiding judges and clerks for harness horse races conducted at the fair and shall be allotted a sum to pay for the judges and clerks.~~ THE PRESIDING JUDGE AND CLERKS SHALL BE LICENSED BY THE USTA AND APPROVED BY THE OFFICE OF THE RACING COMMISSIONER.

(2) The presiding judge shall enforce all department rules pertaining to harness horse racing at fairs and any penalties imposed by the department or by reciprocal agreement with the office of racing commissioner.

(3) The FAIR AND THE presiding judge shall approve all associate judges and timers at each fair race meet to which the presiding judge is assigned.

**(4) THE DEPARTMENT SHALL ALLOT A SUM TO EACH FAIR FOR PAYMENT OF JUDGES AND CLERKS.**

**R 285.812.4 Track maintenance; track equipment; head and saddle pad numbers.**

Rule 4. (1) A fair that may conduct harness horse races shall maintain its racetrack in a manner that makes harness horse racing safe. The track shall be adequately drained, shall be kept in a smooth condition during the races, and shall be sprinkled between races when necessary. If purses are paid in part by funds allocated under this rule, then the track condition shall be approved by a representative of the director before any races are conducted.

(2) An approved starting gate and starter shall be used in a harness horse race. A fair shall be reimbursed FOR A SUM DETERMINED BY THE ADVISORY COMMITTEE (up to \$150.00) for each harness horse race program conducted at the fair for the payment of approved mobile starting gates. The fair shall submit, to the director, within 15 days after completion of the harness race program or September 30, whichever is sooner, receipted invoices for the starting gate operations.

(3) A fair shall use adequate photo finish equipment and an experienced photographer for all harness horse races. The fair shall be reimbursed up to \$150.00 for each harness horse race program conducted at the fair for the payment of approved photo finish operations. The fair shall submit, to the director, within 15 days after completion of the harness race

program or September 30, whichever is sooner, receipted invoices for the photo finish operations.

(4) A harness horse race entry shall be provided with a head number or a saddle pad, or both.

**R 285.812.5 Race program development and allocation.**

Rule 5. (1) The director shall designate annually which standardbred horse races conducted at fairs and licensed pari-mutuel racetracks shall be eligible for state purse supplements. To assist the director in designating the races and determining the number, location, time, conditions, and amount of the state purse supplements for each race, an advisory committee is established consisting of the following persons:

- (a) The president or designee of the Michigan harness horsemen's association.
- (b) The president or designee of the Michigan association of fairs and exhibitions.
- (c) The president or designee of the Michigan standardbred breeders association.
- (d) The president or designee of the northern Michigan fair and racing association.
- (e) The designated representative of the office of racing commissioner.
- (f) A pari-mutuel racetrack representative designated by the racing commissioner.
- (g) A representative of the department who shall chair the committee.
- (h) Other if deemed appropriate by the director.

(2) The advisory committee shall develop and recommend to the director an overall standardbred racing program each year. The overall program shall include the proposed number, location, time, conditions, and amount of state purse supplements to allocate for program races. The standardbred racing program shall be designed to promote positive growth and development of the state's standardbred horse racing and breeding industry.

(3) The director shall make the allocation of funds based on his or her determination of what best promotes the positive growth and development of the horse racing and breeding industry in the state of Michigan.

**R 285.812.5a Rescinded.**

**R 285.812.6 Allocations for purse supplements.**

Rule 6. (1) Before a designated race, the director shall make allocations to a fair or licensed pari-mutuel track for purses for harness horse races as follows:

- (a) The allocation shall be not more than 75% of the purse offered by a fair or licensed pari-mutuel track.
- (b) The allocation for a purse on an overnight race shall not exceed the lowest purse offered for overnight races at any licensed race meeting in this state during the previous year or be more than \$1,000.00.
- (c) The allocation for a purse on an early closing 2- and 3-year-old filly and colt race shall not be more than \$10,000.00.
- (d) The allocation for futurities for 2- and 3-year-old horses shall be not more than 75% of the purse offered and shall not be more than \$18,750.00 for each race. The allocation for the Charles Coon memorial 4-year-old horse futurity shall not be more than \$37,500.00 for each race.

(e) All fair racing shall be conducted under the ~~1996~~ **2001** regulations of the United States trotting association, which are adopted by reference in these rules, if the regulations are not in conflict with department rules. Copies of the United States trotting association rules may be obtained from the United States Trotting Association, 750 Michigan Avenue, Columbus, OH 43215-1191, at no cost as of the time of adoption of these rules, or from the Michigan Department of Agriculture, P.O. Box 30017, Lansing, MI 48909, at no cost as of the time of adoption of these rules.

(f) All pari-mutuel racing conducted under these rules shall be conducted under the rules or orders of the office of the racing commissioner.

(2) Any harness horse ~~sired~~ OWNED outside of Michigan ~~and owned outside of Michigan~~ THAT IS NOT A MICHIGAN SIRED STANDARDBRED HORSE is ineligible to participate in the allocation of state funds paid at any harness horse race contest, unless the director gives written permission.

~~(3) A harness horse sired by a standardbred stallion which served no mares at a location outside of Michigan during the calendar year and which is owned or leased exclusively by a resident or residents of Michigan shall not be barred from a fair harness horse race if the Michigan sired harness horse conforms to the age, gait, sex, and earnings stipulated in the conditions of the race.~~

A MICHIGAN SIRED STANDARDBRED HORSE WHICH IS OWNED EXCLUSIVELY BY A RESIDENT OR RESIDENTS OF MICHIGAN SHALL NOT BE BARRED FROM A FAIR HARNESS HORSE RACE IF THE MICHIGAN SIRED STANDBRED HORSE CONFORMS TO THE AGE, SEX, AND EARNINGS STIPULATED IN THE CONDITIONS OF THE RACE.

(4) If a purse for an early closing colt stake or futurity race is supplemented by state funds, then the race shall be restricted to horses sired by standardbred stallions registered with the state of Michigan.

(5) A stallion shall be registered, on forms provided by the department, with the director by January 1 of each year that the stallion will be standing at service in Michigan. A newly acquired stallion that is purchased after January 1 of the breeding year shall be registered with the director before serving a mare.

(6) A fair has the authority to race any of the races specified in this rule as 1 heat.

(7) The Michigan harness horsemen's association is designated and shall serve as the department's agent for purposes of administering approved procedures governing nominations and sustaining functions for all colt stakes and may be designated the collecting and holding agent for all fees by the sponsors of the colt stakes. While acting as the department's agent under this rule, the Michigan harness horsemen's association shall not require that persons be members of the Michigan harness horsemen's association as a condition of nominating and participating in colt stake races designated by the director to be eligible to receive state purse supplements. The Michigan harness horsemen's association may charge a reasonable service fee to non-members to perform this function. If the Michigan harness horsemen's association is unable or unwilling to serve as the department's agent under this rule, then the director may designate and appoint another agent of his or her choice. Final decisions on application of procedures will be made by the director.

**~~R 285.812.6a Semen transport.~~**

~~— Rule 6a. (1) The person who controls a registered standardbred stallion's stud book shall maintain a record of and receipts for all semen transports for the current breeding season. (2) If the records and supporting receipts establish that all semen transports from the registered stallion have been to a Michigan address of a person who is a Michigan resident and who is a current United States trotting association member and that the semen is to be used for artificial insemination of a specifically named mare at a location in Michigan, then the stallion's Michigan registry shall not be voided because of the transport of the stallion's semen by others, and the stallion's foals from standardbred mares that were artificially inseminated in Michigan are Michigan-bred horses for the purposes of R 285.814.1(j), R 285.818.1(g), and R 285.820.1(f). (3) Every semen transaction shall be recorded and kept for a period of not less than 5 years.~~

Rule 7. A fair that conducts a split race required under United States trotting association rules shall not receive an allocation in addition to the amounts described in R 285.812.6.

**R 285.812.7a Driving in race under influence of alcohol prohibited; breath analyzer test.**

Rule 7a. (1) If a purse is paid in part or in full by state funds, then a driver shall not drive in a fair harness race while under the influence of alcohol. A driver shall submit to a breath analyzer test when directed by a representative of the director. A driver is in violation of these rules if test results show a reading of 0.05% or more of alcohol in the blood and shall not be permitted to drive for at least 12 hours.

(2) IF A PURSE IS TO BE PAID IN PART OR FULL BY STATE FUNDS, THEN THE HORSE SHALL BE FREE OF ANY SUBSTANCES AS DETERMINED BY THE ORC, THAT COULD ENHANCE THE PERFORMANCE OF THE HORSE DURING THE RACE. THE OWNER OR DRIVER SHALL SUBMIT THE HORSE FOR URINE, BLOOD, SALIVA OR OTHER TESTS WHEN DIRECTED BY A REPRESENTATIVE OF THE DIRECTOR.

(3) IF A HORSE DIES WHILE ON GROUNDS FOR A FAIR HORSERACING PROGRAM, THE HORSE MAY NOT BE REMOVED UNTIL A BLOOD SAMPLE IS DRAWN. IF NO AUTHORIZED DEPARTMENT REPRESENTATIVE IS PRESENT, THE JUDGE SHALL AUTHORIZE THE VETERINARIAN SERVICES FOR DRAW ON BEHALF OF THE DEPARTMENT.

(4) THE JUDGE AND FAIR MANAGEMENT SHALL ACKNOWLEDGE AND ENFORCE ANY SANCTIONS MADE BY THE DEPARTMENT OR THE OFFICE OF RACING COMMISSIONER AGAINST A DRIVER, OWNER OR TRAINER. ANY INDIVIDUAL SANCTIONED FROM RACING IN MICHIGAN SHALL NOT BE ALLOWED IN THE PADDOCK AREA, RACETRACK OR ANY OTHER AREA ON THE FAIR GROUNDS DEEMED TO BE PART OF THE RACING PROGRAM.

**R 285.812.8 Hearings.**

Rule 8. If a provision of these rules or any other rules or state law related to a harness race program is violated, then the director shall notify the horse's owner of the violation and shall hold a hearing within 14 days from the date that the violation is reported to the

director. The owner or his or her representative may appear and be heard. From testimony taken, the director shall render a decision on the eligibility of the owner, his or her representative, and the horse, or any of them, to participate in state-funded races or in any future state, county, district, or community fair harness horse race.

**R 285.812.9 Final reports; preservation of records.**

Rule 9. (1) Within 15 days after completion of the harness race program or September 30, whichever is sooner, an association shall submit to the director originals of the judges' sheets signed by the presiding judge, a sworn statement on forms provided by the director, and a copy of the printed race program indicating the order of finish of the horses.

(2) The association shall supply the director with any additional information required in the auditing of the report.

(3) Association records pertaining to the payment of purses shall be kept for the state auditors for not less than 4 years.

**R 285.812.10 Rescission.**

Rule 10. Regulation No. 801, as amended, and Regulation No. 806 of the department of agriculture, being R 285.801, R 285.806.1, and R 285.806.2 of the Michigan Administrative Code, and appearing on pages 3141 to 3143 of the 1964-65 Annual Supplements to the Code, are rescinded.



---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF AGRICULTURE**

**FINANCE AND TECHNOLOGY DIVISION**

**REGULATION NO. 814. MICHIGAN FUTURITY AND SIRE STAKES RACES**

Filed with the Secretary of State on  
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the department of agriculture by section **20** of Act No. ~~327~~ **279** of the Public Acts of ~~1980~~ **1995**, as amended, being §431.320 of the Michigan Compiled Laws)

**R 285.814.1 Definitions.**

Rule 1. As used in these rules:

- (a) "Commission" means the commission of agriculture.
- (b) "Department" means the department of agriculture.
- (c) "Director" means the director of the department.
- (d) "Domicile" means the fixed, permanent, and principal home to which a person intends to return.
- (e) "Fair" means a county, district, community, or 4-H fair; ~~the Upper Peninsula state fair;~~ and any other state fair in Michigan that has been approved by the director to conduct harness horse races during the air.
- (f) "Fairs Exhibitions and racing ~~section~~-DIVISION" means the fairs EXHIBITIONS and racing ~~section of the financial services division~~ of the department of agriculture.
- (g) FUTURITY RACES SHALL BE DEFINED AS:
  - (1) "CHARLES COON MEMORIAL FUTURITY RACE" MEANS A FUTURITY FOR 4-YEAR-OLD STANDARDBRED HARNESS HORSES NOMINATED BY JULY 15 OF THE FOALING YEAR OR SUPPLEMENTAL PAYMENT IN THE YEARLING YEAR AND WHO MEET THE CONDITIONS AS PUBLISHED FOR THE RACE.
  - (2) "Fedele Fauri futurity race" means a futurity for 2- and 3-year-old standardbred harness horses ~~that were sired by registered standardbred stallions which were duly registered with the fairs and racing section, which were leased or owned exclusively by persons who are domiciled in Michigan, and which did not service a mare at a location outside of this state during the calendar year in which service occurred and in which the dams of the competing horses were nominated either when in foal or during the year of foaling or by supplemental payment in the yearling year as provided for in race conditions.~~ NOMINATED BY JULY 15 OF THE FOALING YEAR OR SUPPLEMENTAL PAYMENT IN THE YEARLING YEAR AS PROVIDED FOR IN THE RACE CONDITIONS.

(3) "MICHIGAN BREEDERS FUTURITY" MEANS A FUTURITY FOR STANDARDBRED HARNESS HORSES NOMINATED BY JULY 15 IN THE FOALING YEAR OR SUPPLEMENTAL PAYMENT IN THE YEARLING YEAR AND WHO MEET THE PUBLISHED CONDITIONS.

(4) "MICHIGAN FUTURITY RACE" MEANS A FUTURITY FOR 2- AND 3-YEAR-OLD STANDARDBRED HARNESS HORSES NOMINATED BY JULY 15 OF THE FOALING YEAR OR SUPPLEMENTAL PAYMENT IN THE YEARLING YEAR AND WHO MEET THE PUBLISHED CONDITIONS.

(5) "MICHIGAN SIRE STAKES" MEAN A FUTURITY FOR 2 AND 3-YEAR STANDARDBRED HORSES NOMINATED BY JULY 15 OF THE FOALING YEAR OR SUPPLEMENTAL PAYMENT IN THE YEARLING YEAR AND WHO MEET THE PUBLISHED CONDITIONS.

(6) "SPARTAN FUTURITY" MEANS A FUTURITY FOR 2 AND 3 YEAR OLD STANDARDBRED HARNESS HORSES NOMINATED BY JULY 15 OF THE FOALING YEAR AND WHO MEET THE PUBLISHED CONDITIONS

(7) "WOLVERINE FUTURITY" MEANS A FUTURITY FOR 2 AND 3 YEAR OLD STANDARDBRED HORSES NOMINATED BY JULY 15 OF THE FOALING YEAR OR SUPPLEMENTAL PAYMENT IN THE YEARLING YEAR AND WHO MEET THE PUBLISHED CONDITIONS.

~~(h) "Financial services division" means the financial services division of the department~~

(h) "Lessee" means a person who is domiciled in Michigan and who leases a stallion which has been registered with the U.S.T.A.

~~(j) (i) "Michigan futurity race" means a futurity for 2- and 3-year-old standardbred harness horses that were sired by registered standardbred stallions which were duly registered with the fairs and racing section, which were leased or owned exclusively by persons who are domiciled in Michigan, and which did not service a mare at a location outside of this state during the calendar year in which service occurred and in which the dams of the competing horses were nominated either when in foal or during the year of foaling or by supplemental payment in the yearling year as provided for in race conditions~~

(j) "Owner" means a person or persons who are domiciled in Michigan and who are recorded in the U.S.T.A. sires and dams register.

(k) "Race" means a race event for a definite purse to which the entries close at a prescribed time preceding the race.

(l) "U.S.T.A." means the United States trotting association.

(M) "MICHIGAN SIRE SIBLING STANDARDBRED HORSE" MEANS STANDARDBRED HORSES: CONCEIVED AFTER JANUARY 1, 2001 AND SIBLING BY A STANDARDBRED STALLION REGISTERED WITH THE MICHIGAN DEPARTMENT OF AGRICULTURE THAT WAS LEASED OR OWNED BY A RESIDENT OR RESIDENTS OF THIS STATE AND WHICH DID NOT SERVE A MARE AT A LOCATION OUTSIDE OF THIS STATE FROM FEBRUARY 1 THROUGH JULY 31 OF THE CALENDAR YEAR IN WHICH THE CONCEPTION OCCURRED. TRANSPORTATION OF SEMEN FROM A STANDARDBRED STALLION REGISTERED WITH THE MICHIGAN DEPARTMENT OF AGRICULTURE TO A LOCATION OUTSIDE THE STATE OF MICHIGAN DOES NOT AFFECT THE

ELIGIBILITY OF MICHIGAN CONCEIVED FOAL FOR THE PURSES PROVIDED IN THIS RULE.

A FOAL FROM A MARE OWNED EXCLUSIVELY BY A RESIDENT OR RESIDENTS OF THIS STATE AT THE TIME OF CONCEPTION, CONCEIVED OUTSIDE THE STATE OF MICHIGAN BY MEANS OF TRANSPORTED SEMEN FROM A STANDARD BRED STALLION REGISTERED WITH THE MICHIGAN DEPARTMENT OF AGRICULTURE IS ELIGIBLE FOR PURSES PROVIDED FOR IN THIS RULE.

A FOAL A MARE OWNED EXCLUSIVELY OR IN PART BY A NON-RESIDENT OF MICHIGAN AT THE TIME OF CONCEPTION, CONCEIVED OUTSIDE THE STATE OF MICHIGAN BY MEANS OF SEMEN TRANSPORTED FROM A STANDARD BRED STALLION REGISTERED WITH THE MICHIGAN DEPARTMENT OF AGRICULTURE IS ELIGIBLE FOR PURSES PROVIDED FOR IN THIS RULE, IF BY NOVEMBER 1, OF THE YEAR IN WHICH THE FOAL IS CONCEIVED, THE TRANSPORT FEE IS PAID TO THE DEPARTMENT'S AGENT.

(N) "OFFENDING" HORSE MEANS ONE THAT CAUSES A DISRUPTION OR AN ACCIDENT IN A RACE.

(O) "REGISTERED STALLION" MEANS A STALLION SHALL BE REGISTERED ON FORMS PROVIDED BY THE DIRECTOR, WITH THE DEPARTMENT BY JANUARY 1 EACH YEAR IN WHICH THE STALLIONS WILL BE STANDING AT THE SERVICE IN THIS STATE. A NEWLY ACQUIRED STALLION, WHICH HAS NOT BEEN IN MICHIGAN FOR BREEDING PURPOSES PRIOR TO JANUARY 1, OF A GIVEN YEAR, AND HAS NOT SERVICED ANY MARES AFTER DECEMBER 31, OF THE PRECEDING YEAR, SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE SERVICING ANY MARES, IF ITS FOALS ARE TO BE ELIGIBLE FOR MICHIGAN TAX SUPPORTED RACES.

(P) "TRANSPORT FEE" MEANS A FEE PAID FOR A FOAL FROM A MARE OWNED EXCLUSIVELY OR IN PART BY A NON-RESIDENT OF MICHIGAN AT THE TIME OF CONCEPTION, CONCEIVED OUTSIDE THE STATE OF MICHIGAN BY MEANS OF TRANSPORTED SEMEN FROM A STANDARD BRED STALLION REGISTERED WITH THE DEPARTMENT.

**R 285.814.1a Determination of domicile.**

Rule 1a. Factors to be considered in determining domicile are as follows:

- (a) Voting registration or alien registration showing a Michigan address.
- (b) Federal income tax return showing a Michigan address.
- (c) State income tax return showing a Michigan address.

**R 285.814.2 Kinds of futurity races.**

Rule 2. (1) A Michigan futurity race, the Fedele Fauri futurity race, THE MICHIGAN SIRE STAKES, THE SPARTAN FUTURITY, THE WOLVERINE FUTURITY AND THE MICHIGAN BREEDERS FUTURITY shall be comprised of individual races as follows:

- (a) Two-year-old pacing colts and geldings.
- (b) Two-year-old pacing fillies.
- (c) Two-year-old trotting colts and geldings.
- (d) Two-year-old trotting fillies.

- (e) Three-year-old pacing colts and geldings.
- (f) Three-year-old pacing fillies.
- (g) Three-year-old trotting colts and geldings.
- (h) Three-year-old trotting fillies.
- (2) Monies provided by the director for the special purses for these races shall be divided equally among the races.
- (2) THE CHARLES COON MEMORIAL FUTURITY SHALL BE COMPRISED OF INDIVIDUAL RACES AS FOLLOWS:  
FOUR YEAR OLD TROTTING GELDINGS AND MARES
- (b) FOUR YEAR OLD PACING GELDINGS AND MARES

**R 285.814.3 Host race sites; designation.**

RULE 3. (1) THE DIRECTOR SHALL DESIGNATE ANNUALLY WHICH PARI-MUTUEL TRACK OR TRACKS SHALL HOST THE MICHIGAN SIRE STAKE RACES. TO ASSIST THE DIRECTOR IN DESIGNATING THE TRACK AND TO HELP DETERMINE THE TIME AND CONDITIONS OF THE RACES TO BE RUN, AN ADVISORY PANEL IS ESTABLISHED CONSISTING OF THE FOLLOWING 5 PERSONS:

(A) THE PRESIDENT, OR HIS OR HER DESIGNEE, OF THE MICHIGAN HARNESS HORSEMEN'S ASSOCIATION.

(B) THE PRESIDENT, OR HIS OR HER DESIGNEE, OF THE MICHIGAN STANDARD-BRED HORSE BREEDERS' ASSOCIATION.

(C) THE MICHIGAN RACING COMMISSIONER, OR HIS OR HER DESIGNEE.

(D) A NORTHERN FAIRS REPRESENTATIVE OF THE PARI-MUTUEL HARNESS RACE MEET LICENSEES.

(E) A MEMBER OF THE MICHIGAN DEPARTMENT OF AGRICULTURE, DESIGNATED BY THE DIRECTOR, WHO SHALL ACT AS CHAIRMAN.

(2) THE DIRECTOR SHALL MAKE ANNOUNCEMENTS OF THE TRACK OR TRACKS RECEIVING THE RACES NOT LATER THAN NOVEMBER 1 PRECEDING THE YEAR IN WHICH THE RACES ARE TO BE CONDUCTED.

(3) The director shall designate the fairs to host the Michigan futurity races and Fedele Fauri futurity races. The Michigan futurity race shall be awarded to a fair located in the Lower Peninsula of Michigan. The Fedele Fauri futurity race shall be awarded to a fair located in the Upper Peninsula of Michigan IF A FAIR FROM THE UPPER PENINSULA APPLIES FOR THE RACE.

(4) The director shall not award ~~the Michigan futurity races or the Fedele Fauri futurity races at the same fair at which any of the other standardbred futurities for 2 and 3 year-old standardbred harness horses are held.~~ MORE THAN ONE FUTURITY RACE.

(5) If, because of unfavorable weather or other unavoidable reason, ~~the Michigan futurity races or Fedele Fauri futurity~~ A FUTURITY race ~~are~~ IS postponed, ~~they~~ IT shall be rescheduled at the discretion of the director. The director may reschedule the race at another fair if the fair originally designated to host the futurity is unable to do so.

**R 285.814.4 Purse distributions.**

Rule 4. (1) Michigan futurity races ~~and Fedele Fauri futurity races~~ shall be conducted in 1 heat unless elimination races are required.

(2) Each purse in Michigan futurity races ~~and Fedele Fauri futurity races shall be divided among the winners of each heat in the following manner:~~

- (a) ~~Five or more starters 50% 25 12 8 5~~
- (b) ~~Four starters 50% 25 15 10~~
- (c) ~~Three starters 60% 30 10~~
- (d) ~~Two starters 65% 35~~
- (e) ~~One starter 100%~~

WITH 5 OR MORE STARTERS SHALL BE DIVIDED: 50%-25%-12%-8%-5%, IN THE EVENT THERE ARE LESS THAN 5 STARTERS, ALL UNCONTESTED MONIES WILL BE PAID TO THE WINNER. IF THERE BE ANY PREMIUM OR PREMIUMS FOR WHICH HORSE HAVE STARTED BUT UNABLE TO FINISH, DUE TO AN ACCIDENT, ALL UNOFFENDING HORSES WHO DID NOT FINISH WILL SHARE EQUALLY IN SUCH PREMIUMS PROVIDED HOWEVER, THAT WHERE THERE ARE FEWER UNOFFENDING HORSES FAILING TO FINISH THAN THERE ARE PREMIUMS FOR WHICH HORSES HAVE STARTED BUT HAVE NOT FINISHED, THE NUMBER OF PREMIUMS IN EXCESS OF THE NUMBER OF UNOFFENDING HORSES NOT FINISHING SHALL GO TO THE WINNER.

**R 285.814.5 Elimination heats.**

Rule 5. Elimination heats shall be raced pursuant to U.S.T.A. rules: UNLESS PUBLISHED IN THE CONDITIONS OF THE RACE AND APPROVED BY THE DIRECTOR.

**R 285.814.6 Starting rules.**

Rule 6. The starting rules shall be the U.S.T.A. starting rules.

**R 285.814.7 Final reports; additional information; records of payment; retention.**

Rule 7. (1) Within 15 days after completion of Michigan futurity races ~~or Fedele Fauri futurity races~~ or September 30, whichever is sooner, a fair association shall submit to the director originals of the judges' sheets signed by the presiding judge, a sworn statement on forms provided by the director, and a copy of the printed race program indicating the order of finish of the horses.

(2) The fair association shall supply the director with any additional information required in auditing the report.

(3) Fair association records pertaining to the payment of purses shall be kept for the state auditors for not less than 4 years.

**R 285.814.8 Registration.**

Rule 8. (1) The owner or lessee shall register a standardbred stallion, on forms provided by the fairs and racing division, by January 1 each year in which the stallion will be standing at service in this state.

(2) The owner or lessee of a newly acquired stallion, which has not been in Michigan for breeding purposes before January 1 of a given year and which has not serviced a mare after December 31 of the preceding year, shall register the newly acquired stallion, on forms provided by the fairs and racing division, before the stallion services a mare. If the stallion is leased, a copy of the lease agreement shall accompany the fairs and racing division application for registration.

**R 285.814.9 Rescission.**

Rule 9. Regulation No. 803 governing "Special Purses on Michigan Sired Colts," being R 285.803 of the Michigan Administrative Code and appearing on pages 370 to 373 of the 1957 Annual Supplement to the Code is rescinded.

**RULE 10 FEES AND NOMINATIONS**

RULE 10 (1) THE MICHIGAN HARNESS HORSEMEN'S ASSOCIATION IS DESIGNATED AND SHALL SERVE AS THE DEPARTMENT'S AGENT FOR PURPOSES OF ADMINISTERING APPROVED PROCEDURES GOVERNING NOMINATIONS AND SUSTAINING FUNCTIONS FOR ALL STAKES AND FUTURITIES AND MAY BE DESIGNATED THE COLLECTING AND HOLDING AGENT FOR ALL FEES BY THE SPONSORS OF THE STAKES AND FUTURITIES. WHILE ACTING AS THE DEPARTMENT'S AGENT UNDER THIS RULE, THE MICHIGAN HARNESS HORSEMEN'S ASSOCIATION SHALL NOT REQUIRE THAT PERSONS BE MEMBERS OF THE MICHIGAN HARNESS HORSEMEN'S ASSOCIATION AS A CONDITION OF NOMINATING AND PARTICIPATING IN STAKE AND FUTURITY RACES DESIGNATED BY THE DIRECTOR TO BE ELIGIBLE TO RECEIVE STATE PURSE SUPPLEMENTS. THE MICHIGAN HARNESS HORSEMEN'S ASSOCIATION MAY CHARGE A REASONABLE SERVICE FEE TO NON-MEMBERS TO PERFORM THIS FUNCTION. IF THE MICHIGAN HARNESS HORSEMEN'S ASSOCIATION IS UNABLE OR UNWILLING TO SERVE AS THE DEPARTMENT'S AGENT UNDER THIS RULE, THEN THE DIRECTOR MAY DESIGNATE AND APPOINT ANOTHER AGENT OF HIS OR HER CHOICE. FINAL DECISIONS ON APPLICATION OF PROCEDURES WILL BE MADE BY THE DIRECTOR.

2) THIS ADVISORY BOARD CONSISTING OF REPRESENTATIVES FROM NORTHERN FAIRS AND RACING ASSOCIATION, MICHIGAN HARNESS HORSEMAN ASSOCIATION, MICHIGAN STANDARD BRED BREEDERS ASSOCIATION, THE OFFICE OF THE RACING COMMISSIONER AND CHAIRED BY THE DIRECTOR OR HIS OR HER DESIGNEE SHALL RECOMMEND FEES AND NOMINATIONS AND TRANSPORT FEES. THE BOARD'S RECOMMENDATION SHALL BE SUBMITTED TO THE COMMISSION FOR REVIEW AND APPROVAL.

---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF AGRICULTURE**

**~~FINANCE AND TECHNOLOGY DIVISION~~**

**REGULATION NO. 820. MICHIGAN-BRED PARI-MUTUEL RACES**

Filed with the Secretary of State on  
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the department of agriculture by section 20 of Act No. 327 279 of the Public Acts of 1980 1995, as amended, being §431.320 of the Michigan Compiled Laws)

**R 285.820.1 Definitions.**

Rule 1. As used in these rules:

- (a) "Commissioner" means the Michigan state racing commissioner.
- (b) "Department" means the Michigan department of agriculture.
- (c) "Director" means the director of the department.
- (d) "Licensed racing association" means an association licensed by the commissioner to conduct standardbred horse races in Michigan.
- (e) "M.H.H.A." means the Michigan harness horsemen's association.
- (f) "Michigan-bred horse" means ~~a horse FROM A REGISTERED STANDARD BRED MARE OWNED EXCLUSIVELY BY A RESIDENT OR RESIDENTS OF MICHIGAN AT THE TIME OF CONCEPTION. sired by a registered standardbred stallion, which stallion is owned or leased exclusively by a resident or residents of Michigan and which served no mares at any location outside of Michigan during the calendar year in which service occurred. The term also means a horse from a registered standardbred mare owned exclusively by a resident or residents of Michigan at the time at which the service occurred.~~
- (g) "MICHIGAN SIRED STANDARD BRED HORSE" MEANS STANDARD BRED HORSES:

CONCEIVED AFTER JANUARY 1, 2001 AND SIRED BY A STANDARD BRED STALLION REGISTERED WITH THE MICHIGAN DEPARTMENT OF AGRICULTURE THAT WAS LEASED OR OWNED BY A RESIDENT OR RESIDENTS OF THIS STATE AND WHICH DID NOT SERVE A MARE AT A LOCATION OUTSIDE OF THIS STATE FROM FEBRUARY 1 THROUGH JULY 31 OF THE CALENDAR YEAR IN WHICH THE CONCEPTION OCCURRED. TRANSPORTATION OF SEMEN FROM A STANDARD BRED STALLION REGISTERED WITH THE MICHIGAN DEPARTMENT OF AGRICULTURE TO A LOCATION OUTSIDE THE STATE OF MICHIGAN DOES NOT AFFECT THE ELIGIBILITY OF MICHIGAN CONCEIVED FOAL FOR THE PURSES PROVIDED IN THIS RULE.

A FOAL FROM A MARE OWNED EXCLUSIVELY BY A RESIDENT OR RESIDENTS OF THIS STATE AT THE TIME OF CONCEPTION, CONCEIVED OUTSIDE THE STATE OF MICHIGAN BY MEANS OF TRANSPORTED SEMEN FROM A STANDARD BRED STALLION REGISTERED WITH THE MICHIGAN DEPARTMENT OF AGRICULTURE IS ELIGIBLE FOR PURSES PROVIDED FOR IN THIS RULE.

A FOAL FROM A MARE OWNED EXCLUSIVELY OR IN PART BY A NON-RESIDENT OF MICHIGAN AT THE TIME OF CONCEPTION, CONCEIVED OUTSIDE THE STATE OF MICHIGAN BY MEANS OF SEMEN TRANSPORTED FROM A STANDARD BRED STALLION REGISTERED WITH THE MICHIGAN DEPARTMENT OF AGRICULTURE IS ELIGIBLE FOR PURSES PROVIDED FOR IN THIS RULE, IF BY NOVEMBER 1, OF THE YEAR IN WHICH THE FOAL IS CONCEIVED, THE TRANSPORT FEE IS PAID TO THE DEPARTMENT'S AGENT.

(H) "OFFENDING" HORSE MEANS ONE THAT CAUSES A DISRUPTION OR AN ACCIDENT IN A RACE.

(I) "REGISTERED STALLION" MEANS A STALLION SHALL BE REGISTERED ON FORMS PROVIDED BY THE DIRECTOR, WITH THE DEPARTMENT BY JANUARY 1 EACH YEAR IN WHICH THE STALLIONS WILL BE STANDING AT THE SERVICE IN THIS STATE. A NEWLY ACQUIRED STALLION, WHICH HAS NOT BEEN IN MICHIGAN FOR BREEDING PURPOSES PRIOR TO JANUARY 1, OF A GIVEN YEAR, AND HAS NOT SERVICED ANY MARES AFTER DECEMBER 31, OF THE PRECEDING YEAR, SHALL BE REGISTERED WITH THE DEPARTMENT BEFORE SERVICING ANY MARES, IF ITS FOALS ARE TO BE ELIGIBLE FOR MICHIGAN TAX SUPPORTED RACES.

**R 285.820.2 Michigan-bred foals eligible for nomination to Michigan-bred races; racing divisions.**

Rule 2. (1) The first Michigan-bred foals eligible to be nominated for these Michigan-bred pari-mutuel races shall be Michigan-bred foals born in the official 1975 United States trotting association foaling year.

(2) In 1979 and thereafter, they shall be raced as Michigan-bred 4-year-olds as follows:

(a) Michigan-bred 4-year-old trot.

(b) Michigan-bred 4-year-old pace.

**R 285.820.3 Fees and nominations.**

Rule 3. (1) The M.H.H.A. shall be the holding agent for all fees collected.

(2) The host licensed racing association is responsible for the disbursement of purse money pertaining to the Michigan-bred pari-mutuel races.

(3) All Michigan-bred foals shall be nominated on July 15 of the foaling year or by supplemental payment in the yearling year as provided for in the race conditions.

(4) A starting fee of 1% of the state's contribution is due when the Michigan-bred horses declare in to start pursuant to the rules that exist at the track when the Michigan-bred pari-mutuel race is to be contested.

(5) All nominations shall be divided equally among the Michigan-bred pari-mutuel race divisions.

(6) Sustaining and starting fees shall follow their respective racing division.



**R 285.820.4 Application and designation of host tracks.**

Rule 4. (1) A licensed racing association requesting state funds for payment of Michigan-bred pari-mutuel race purses shall submit a properly completed application to the racing commissioner.

(2) The racing commissioner shall designate annually at which pari-mutuel track the pace and trot shall be held.

(3) If because of unfavorable weather or other unavoidable circumstances the Michigan-bred pari-mutuel races are postponed, they may be rescheduled at the discretion of the director of agriculture and the racing commissioner.

**R 285.820.5 Elimination plans for Michigan-bred pari-mutuel races.**

Rule 5. Rule 5. Elimination heats shall be raced pursuant to U.S.T.A. rules.

UNLESS PUBLISHED IN THE CONDITIONS OF THE RACE AND APPROVED BY THE DIRECTOR.

~~(1) All races shall be conducted pursuant to the following elimination plan:~~

~~(a) If more than 10 horses declare to start, elimination races shall be held 7 calendar days prior to the final race.~~

~~(b) If 11 to 20 horses declare to start, 2 elimination heats shall be held, with the first 5 horses of each heat qualifying for the finals.~~

~~(c) If 21 to 30 horses declare to start, 3 elimination heats shall be held, with the first 3 horses of each elimination heat qualifying for the finals.~~

~~(d) If 31 to 40 horses declare to start, 4 elimination heats shall be held, with the first 2 horses in each heat qualifying for the finals.~~

~~(e) If more than 40 horses declare to start, elimination heats shall be raced so that not more than 10 horses start in any elimination. The second place finishers shall be drawn by lot to determine which horses will fill the remaining positions for a total of not more than 10 starters.~~

~~(2) If less than 11 horses declare to start, they shall race the final without elimination heats for the total money available for that division.~~

~~(3) All horses qualifying and desiring to enter the finals shall reenter for the finals and the post positions shall be drawn by lot.~~

~~(4) Michigan-bred pari-mutuel races, where not specifically covered by these rules, shall be raced pursuant to the rules of the Michigan racing commissioner.~~

**R 285.820.6 Purse distribution.**

Rule 6. (1) Each purse in the Michigan-bred pari-mutuel races shall be divided among the winners of each race in the following manner:

(a)	5 or more starters	50%	25%	12%	8%	5%
(b)	4 starters	50%	25%	15%	10%	
(c)	3 starters	55%	30%	15%		
(d)	2 starters	65%	35%			
(e)	1 starter	100%				

WITH 5 OR MORE STARTERS SHALL BE DIVIDED: 50%-25%-12%-8%-5%, IN THE EVENT THERE ARE LESS THAN 5 STARTERS, ALL UNCONTESTED MONIES WILL BE PAID TO THE WINNER. IF THERE BE ANY PREMIUM OR PREMIUMS FOR WHICH HORSE HAVE STARTED BUT UNABLE TO FINISH, DUE TO AN ACCIDENT, ALL UNOFFENDING HORSES WHO DID NOT FINISH WILL SHARE EQUALLY IN SUCH PREMIUMS PROVIDED HOWEVER, THAT WHERE THERE ARE FEWER UNOFFENDING HORSES FAILING TO FINISH THAN THERE ARE PREMIUMS FOR WHICH HORSES HAVE STARTED BUT HAVE NOT FINISHED, THE NUMBER OF PREMIUMS IN EXCESS OF THE NUMBER OF UNOFFENDING HORSES NOT FINISHING SHALL GO TO THE WINNER.

(2) The purses for these elimination heats shall be derived from the purse pool of the host track.

**R 285.820.7 Ineligibility of person or entity to participate in future Michigan-bred pari-mutuel race programs.**

Rule 7. A person or entity wilfully falsifying any documents required by these rules or wilfully accepting and retaining any purse monies contrary to these rules shall be ineligible to participate in any future Michigan-bred pari-mutuel race programs under the provisions of these rules.

---

NOTICE OF PUBLIC HEARING

---

**DEPARTMENT OF AGRICULTURE**

**FAIRS, EXHIBITIONS AND RACING DIVISION**

**ORR # 2001-51, 52, 53, 54**

The Michigan Department of Agriculture, Fairs, Exhibitions and Racing Division, will conduct a public hearing on proposed amendments to Regulation 808, Payment of Breeder's Awards; Regulation 812, State Purse Supplement for Harness Horse Racing and Pari-mutuel Tracks at Fairs; Regulation 814, Michigan Futurity and Sire Stake Races; and Regulation 820, Michigan Bred Pari-mutuel Races. The rules are being amended to comply with the Racing Law.

The public hearing will be held on Tuesday December 18, 2001, beginning at 11:00 AM, at the Ottawa Building, Upper Parking Level, Conference Room #4, 625 West Ottawa, Lansing, MI 48933.

The proposed rules (identified as 2001-051AC, 2001-052AC, 2001-053AC and 2001-054AC) can be downloaded from the Internet through the Office of Regulatory Reform at <http://www.migov.state.mi.us/rules/orr>. Copies of the proposed rules may be obtained by contacting:

Fairs, Exhibitions and Racing Division  
Michigan Department of Agriculture  
PO Box 30017  
Lansing, Michigan 48909  
Telephone: (517) 241-2529  
Fax: (517) 241-4217  
E-mail: [devins@state.mi.us](mailto:devins@state.mi.us)

All interested persons are invited to attend and present their views. It is requested that all statements be submitted in writing for the hearing record. Anyone unable to attend may submit comments in writing to Fairs, Exhibitions and Racing Division, Michigan Department of Agriculture, at the address above. Written comments must be received by December 21, 2001.

Persons needing accommodations for effective participation in the meeting should contact the Fairs, Exhibitions and Racing Division, at (517) 241-2529, a week in advance to request mobility, visual, hearing, or other assistance.

Promulgation of these rules is pursuant to the authority conferred on the commission of agriculture by sections 7(4) of Act No. 361 of the Public Acts of 1978, as amended, being Section 285.161, et. Seq., of the Michigan Compiled Laws, also known as the Michigan Exposition and Fairgrounds Act. These rules become effective 15 days after filing with the Secretary of State.

Dan Wyant, Director

---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AIR QUALITY DIVISION**

**AIR POLLUTION CONTROL**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of environmental quality by sections 5503 and 5512 of 1994 PA 451, MCL 324.5503 and 324.5512, and Executive Reorganization Order No. 1995-18, MCL 324.99903)

R 336.1102, R 336.1104, R 336.1105, R 336.1107, R 336.1108, R 336.1113, R 336.1118, and R 336.1120 of the Michigan Administrative Code are amended as follows:

**PART 1. GENERAL PROVISIONS**

**R 336.1102 Definitions; B.**

Rule 102. As used in these rules:

- (a) "Best available control technology for toxics" or "T-BACT" means the maximum degree of emission reduction which the DEPARTMENT determines is reasonably achievable for each process that emits toxic air contaminants, taking into account energy, environmental, and economic impacts and other costs.
- (b) "Best available information" means data which serves as the basis for a risk assessment. Such information may be taken from the scientific literature or the integrated risk information system database maintained by the United States environmental protection agency or from other databases, as appropriate. The term includes other pertinent studies or reports containing data which the department finds to be of adequate quality for use in the risk assessment.
- (c) "Black coating" means a coating which meets both of the following criteria:
  - (i) Maximum lightness: 23 units.
  - (ii) Saturation: less than 2.8, where saturation equals the square root of  $A^2 + B^2$ . These criteria are based on Cielab color space, 0/45 geometry. For spherical geometry, specular included, maximum lightness is 33 units.
- (d) "Blending tank," as it pertains to R 336.1631, means any vessel in which organic resin and solvent or other materials are added to produce a product blend.
- (e) "Breakthrough," with respect to a carbon adsorption system, means a condition in which the carbon bed is saturated with a volatile organic compound to the extent that the control efficiency of the system is substantially reduced.

(f) "Business machine" means a device that uses electronic or mechanical methods to process information, perform calculations, print or copy information or convert sound into electrical impulses for transmission, including devices listed in standard industrial classification numbers 3572, 3573, 3574, 3579, and 3661 and photocopy machines, a subcategory of standard industrial classification number 3861.

**R 336.1104 Definitions; D.**

Rule 104. As used in these rules:

- (a) "Dampered-off coke oven" means a coke oven that is isolated from the coke oven gas collector main by closing every damper valve on all standpipes of that oven during the decarbonization period.
- (b) "Decarbonization period," with respect to coke ovens, means the time for combusting carbon formed at the oven roof and in the standpipe assembly. The decarbonization period commences when a charging-hole lid or lids or a standpipe lid or lids are removed or opened near the end of the coking cycle and ends with the initiation of the next charging period.
- (c) "Delivery vessel" means any tank truck, tank-equipped trailer, railroad tank car, or any similar vessel equipped with a storage tank used for the transport of a volatile organic compound from sources of supply to any stationary vessel.
- (d) "Demolition waste material" means waste building materials that result from demolition operations on houses and commercial and industrial buildings.
- (e) "Department" means the director of the department of ENVIRONMENTAL QUALITY or his or her designee.
- (f) "Difficult-to-monitor component" means a component that can only be monitored by elevating the monitoring personnel more than 6 feet above a support surface.
- (g) "Dry organic resin" means the organic resin solids from which all liquids have been removed, as deliverable for sale or use.
- (h) "Dispensing facility" means a location where gasoline is transferred to a motor vehicle tank from a stationary vessel.

**R 336.1105 Definitions; E.**

Rule 105. As used in these rules:

- (a) "Electrostatic prep coat" means a coating that is applied to a plastic part solely to provide conductivity for the subsequent application of a prime, a topcoat, or other coating through the use of electrostatic application methods. An electrostatic prep coat is clearly identified as an electrostatic prep coat on its accompanying material safety data sheet.
- (b) "Emission unit" means any part of a stationary source that emits or has the potential to emit an air contaminant. Examples of emission units include the following:
  - (i) A fossil fuel-fired, steam-generating unit.
  - (ii) A topcoat painting line.
  - (iii) A solid waste incinerator.
  - (iv) A clinker cooler at a portland cement plant.
  - (v) A process unit at a chemical plant.
- (c) "Equipment utilized in the manufacturing of pharmaceutical products" means equipment associated with the storage, transfer, or manufacturing of pharmaceutical products, including raw materials and intermediate products, by chemical synthesis. This

definition does not include equipment associated with the manufacturing of pharmaceutical products by fermentation or extraction, the formulation or packaging of bulk pharmaceuticals, or the processing of waste resulting from pharmaceutical synthesis.

(d) "Equivalent method," with respect to source sampling, means a method or set of procedures for obtaining source samples that has been demonstrated to the department's satisfaction to have a consistent and quantitatively known relationship to an applicable reference test method.

(e) "Excess air" means any air in excess of the amount of air required for complete combustion of a material as determined by using reference test method 3 of appendix A to the department's rules.

(f) "Excess emissions" means emissions of an air contaminant in excess of ANY APPLICABLE emission LIMITATION.

(g) "External floating roof stationary vessel" means an open top stationary vessel equipped with a cover or roof which rests upon and is supported by the liquid being contained and which has a closure seal or seals to reduce the space between the cover or roof edge and the vessel wall.

(h) "Extreme environmental conditions" means any of the following:

(i) Outdoor weather.

(ii) Temperatures consistently above 95 degrees Celsius (203 degrees Fahrenheit).

(iii) Detergents.

(iv) Abrasive and scouring agents.

(v) Solvents.

(vi) Corrosive atmospheres.

(vii) Other similar harsh conditions.

(i) "Extreme performance coating" means a coating which is designed to protect a coated part from extreme environmental conditions and which is applied to a part that, in its use as a finished product, is intended to be subjected to extreme environmental conditions.

### **R 336.1107 Definitions; G.**

Rule 107. As used in these rules:

(a) "Gasoline" means any petroleum distillate which has a Reid vapor pressure equal to or greater than 4.0 psia and which is used for automotive fuel.

(b) "Geographical site" means contiguous land ownership by 1 landowner. A public right of way, such as a road, railroad, and watercourse, through part of the site, is not considered to break the continuity. Where transmission and fuel delivery rights-of-way or a strip of land that serves no other purpose than as a transportation or materials handling link connects 2 or more otherwise separate geographical sites, the connected sites shall be considered separate geographical sites.

(c) "Good engineering practice design" means, with respect to stack heights, the height necessary to ENSURE that emissions from the stack result in acceptable concentrations of air contaminants in the immediate vicinity of the stationary source as a result of atmospheric downwash, eddies, and wakes which may be created by the stationary source itself, nearby structures, or nearby terrain obstacles and shall not exceed the greatest of the following limits:

(i) Two hundred and thirteen feet (65 meters).

- (ii) Two and one-half times the height of the structure or nearby structure for those stacks for which construction or modification commenced on or before January 12, 1979, if the owner or operator produces evidence that this relationship was actually relied upon in designing the stack to ENSURE protection against downwash.
- (iii) The sum of the height of the structure or nearby structure plus 1.5 times the lesser of the height or width of the structure or nearby structure for those stacks for which construction or modification commenced after January 12, 1979.
- (iv) Such height as an owner or operator of a stationary source demonstrates, to the satisfaction of the DEPARTMENT, is necessary through the use of field studies or fluid models after notice and opportunity for public hearing.
- (d) "Gloss reducer" means a coating that is applied to a plastic part solely to reduce the shine of the part. A gloss reducer shall not be applied at a thickness of more than 0.5 mils of coating solids.
- (e) "Graphic arts line" means an operation or series of operations in which printing (the formation of words), designs, or pictures on a substrate by means of partial coverage of the substrate are employed. A graphic arts line may also employ 1 or more coating operations in which a uniform layer of coating is applied either across the entire width of the substrate or across only certain portions of the substrate.

**R 336.1108 Definitions; H.**

Rule 108. As used in these rules:

- (a) "Hardboard" means a panel manufactured primarily from interfelted ligno-cellulosic fibers which are consolidated under heat and pressure in a hot press.
- (b) "Hardwood plywood" means plywood whose surface layer is a veneer of hardwood.
- (c) "Heavy liquid" means a liquid which is less than 10% evaporated at 150 degrees Centigrade as determined by ASTM method d-86. ASTM d-86 is herein adopted by reference IN THESE RULES. A copy may be inspected at the Lansing office of the air quality division of the department of ENVIRONMENTAL QUALITY. A copy may be obtained from the Department of ENVIRONMENTAL QUALITY, P.O. Box30260, Lansing, Michigan 48909-7760, at a cost of \$40.00. A copy may also be obtained from the AMERICAN SOCIETY FOR TESTING AND MATERIALS, 100 BARR HARBOR DRIVE, WEST CONSHOHOCKEN, PENNSYLVANIA 19428, at a cost of-\$40.00.
- (d) "High bake coating" means a coating which is designed to cure only at temperatures of more than 90 degress Celsius (194 degrees Fahrenheit).
- (e) "High-speed dispersion mill" means a mixer THAT HAS 1 or more blades which rotate at high speed to disperse coating solids.

**R 336.1113 Definitions; M.**

Rule 113. As used in these rules:

- (a) "Major nonattainment air contaminant" means a nonattainment air contaminant for which the potential to emit is significant for a proposed major offset source or for which there is a significant net emissions increase for a proposed major offset modification.
- (b) "Major offset modification" means the addition of a process or process equipment or a physical change in, or change in the method of operation of, a process or process equipment



at a major offset source which results in a significant net emissions increase of any air contaminant regulated under the clean air act.

(c) "Major offset source" means either of the following:

(i) A stationary source which has a potential to emit of 100 or more tons per year of any air contaminant regulated under the clean air act.

(ii) A particular change at a minor offset source which results in an increase in the potential to emit of 100 or more tons per year of any air contaminant regulated under the clean air act.

(d) "Malfunction" means any sudden, INFREQUENT AND NOT REASONABLY PREVENTABLE failure of a source, process, process equipment, or air pollution control equipment to operate in a normal or usual manner. Failures THAT ARE CAUSED IN PART BY POOR maintenance OR CARELESS OPERATION ARE NOT MALFUNCTIONS.

(e) "Manufacturing location" means a place where a person is engaged in the making of goods or wares, including the generation of electricity in the processing of material or primarily in the disposal or treatment of solid or liquid waste. For the purpose of assessing a surveillance fee, "manufacturing location" includes all such places, whether publicly or privately owned and contained within 1 geographical site, except places owned and operated by the state government. A power plant, as defined in table 42 of R336.1401, constitutes a separate manufacturing location when used to supply steam or energy to more than 1 other manufacturing or commercial location. In any case, a power plant THAT HAS a capacity of more than 500,000 pounds of steam per hour is considered a separate manufacturing location. For a large industrial complex or other unusual cases, the department may determine that the complex constitutes more than 1 manufacturing location, based on such factors as separate corporate operating divisions, units, or sections.

(f) "Market testing and market development" means the limited or general distribution of a product to the consumer to gather information concerning the demand for the product.

(g) "Material handling equipment," as referenced in table 31, means a device, contrivance, or equipment used to bag, blend, convey, crush, grind, load, mill, mix, shed, store, transfer, or unload a physical substance.

(h) "Material recovery equipment" means any equipment utilized in the transport and recovery of styrene monomer and other impurities from other products and by-products in the manufacture of polystyrene resin by continuous process, including the styrene devolatilizer unit and styrene recovery unit.

(i) "Minor offset source" means a stationary source which has a potential to emit of less than 100 tons per year for each air contaminant regulated under the clean air act.

(j) "Modify" means making a physical change in, or change in the method of operation of, existing process or process equipment which increases the amount of any air contaminant emitted into the outer air which is not already allowed to be emitted under the conditions of a permit or order or which results in the emission of any toxic air contaminant into the outer air not previously emitted. An increase in the hours of operation or an increase in the production rate up to the maximum capacity of the process or process equipment shall not be considered to be a change in the method of operation unless the process or process equipment is subject to enforceable permit conditions or enforceable orders which limit the production rate or the hours of operation, or both, to a level below the proposed increase.

(k) "Motor vehicle" means any self-propelled vehicle registered for, or requiring registration for, use on the highway.

**R 336.1118 Definitions; R.**

Rule 118. As used in these rules:

(a) "Reactor" means a vessel which may be jacketed to permit temperature control and which is designed to contain materials during chemical reaction.

(b) "Reconstruction" means the replacement of components of an existing facility so that the fixed capital cost of the new components is more than 50% of the fixed capital cost that would be required to construct a comparable entirely new emission unit and so that it is technologically and economically feasible to meet the applicable requirement.

"Fixed capital cost," as used in this subdivision, means the capital needed to provide all of the depreciable components.

(c) "Red coating" means a coating which meets all of the following criteria:

(i) Yellow limit: the hue of hostaperm scarlet.

(ii) Blue limit: the hue of monastral red-violet.

(iii) Lightness limit for metallics: 35% aluminum flake.

(iv) Lightness limit for solids: 50% titanium dioxide white.

(v) Solid reds: hue angle of -11 to 38 degrees and maximum lightness of 23 to 45 units.

(vi) Metallic reds: hue angle of -16 to 35 degrees and maximum lightness of 28 to 45 units.

These criteria are based on Cielab color space, 0/45 geometry. For spherical geometry, specular included, the upper limit is 49 units. The maximum lightness varies as the hue moves from violet to orange. This is a natural consequence of the strength of the colorants, and real colors show this effect.

(d) "Reference test method," with respect to source sampling, means a method or set of procedures, as described in appendix A to these rules, for obtaining source samples.

(e) "Refinery unit" means a set of components and other equipment which are a part of a basic process operation, such as distillation, hydrotreating, cracking, or reforming of hydrocarbons.

(f) "Reid vapor pressure" means the absolute vapor pressure of an organic compound at 100 degrees Fahrenheit as measured by the standard test method set forth in ASTM D-323 or approved equivalent. ASTM D-323 is adopted by reference in these rules. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$30.00. A copy may also be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428, at a cost as of the time of adoption of these rules of \$30.00.

(g) "Repetitive production of a product" means, for batch processes or process equipment, producing 10 or more batches of the product. For continuous processes or process equipment, this phrase means running the process or process equipment for a period of more than 10 times the length of time for the raw materials to become the finished product or 24 hours, whichever is longer.

(h) "Research and development activities" means activities conducted for the primary purpose of developing new production processes and products, testing more efficient

production processes, or testing methods for preventing or reducing adverse environmental impacts, if the activities are in compliance with both of the following provisions:

(i) The activities do not include the production of an intermediate or final product for sale or exchange for commercial profit, except in a de minimis manner.

(ii) The activities are conducted at a research or laboratory facility that is operated under the close supervision of technically trained personnel.

(i) "Resist coat" means a coating that is applied to a plastic part before metallic plating to prevent deposits of metal on portions of the plastic part.

(j) "Responsible official" means, for the purposes of signing and certifying the truth, accuracy, and completeness of permit applications, monitoring and other reports, and compliance certifications, any of the following:

(i) For a corporation, a president, secretary, treasurer, or vice-president of the corporation who is in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation. The person identified in the preceding sentence may appoint another person as his or her authorized representative under either of the following circumstances:

(A) The representative is responsible for the overall operation of 1 or more manufacturing, production, or operating facilities applying for or subject to a permit and either the facilities employ more than 250 persons or have gross annual sales or expenditures of more than \$25,000,000.00.

(B) The representative has responsibilities for the overall operation of a source and is approved in advance by the department. A responsible official shall submit a written request for approval from the department to designate an authorized representatives pursuant to this paragraph. The department shall respond, in writing, within 30 days of receipt of the request.

(ii) For a partnership or sole proprietorship, a general partner or the proprietor.

(iii) For a county, city, village, township, state, federal, or other public agency, either a principal executive officer or ranking elected official. For this purpose, a principal executive officer includes the chief executive officer who has responsibility for the overall operations of a principal geographic unit of the agency.

(iv) For affected sources under title IV of the clean air act, the designated representative as defined in title IV of the clean air act.

(k) "Rotogravure printing" means the application of words, designs, pictures, or surface coating to a substrate by means of a roll printing technique that involves intaglio or recessed image areas in the form of cells.

**R 336.1120 Definitions; T.**

Rule 120. As used in these rules:

(a) "Temporary source" means a stationary source, process, or process equipment that commences operation and is located at a geographic site for not more than 12 consecutive months.

(b) "Texture coat" means a coating that is applied to a plastic part which, in its finished form, consists of discrete raised spots of the coating.

(c) "Thin particleboard" means a manufactured board which is 1/4 of an inch or less in thickness and which is made of individual wood particles that have been coated with a binder and formed into flat sheets by pressure.

(d) "Thinning tank," as it pertains to R 336.1631, means any vessel which receives resin from a reactor and to which solvents or other materials are added to thin the resin.

(e) "Tileboard" means paneling that has a colored, waterproof surface coating.

(f) "Toxic air contaminant" or "TAC" means any air contaminant for which there is no national ambient air quality standard and which is or may become harmful to public health or the environment when present in the outdoor atmosphere in sufficient quantities and duration. For the purpose of this definition, ALL OF the following substances shall not be considered to be toxic air contaminants:

(i) Acetylene.

(ii) Aluminum metal dust.

(iii) Aluminum oxide (nonfibrous forms).

(iv) Ammonium sulfate.

(v) Argon.

(vi) Calcium carbonate.

(vii) Calcium hydroxide.

(viii) Calcium oxide.

(ix) Calcium silicate.

(x) Calcium sulfate.

(xi) Carbon dioxide.

(xii) Carbon monoxide.

(xiii) Cellulose.

(xiv) Coal dust.

(xv) Crystalline silica emissions from any of the following processes:

(A) Extraction and processing of all metallic or non-metallic minerals.

(B) Sand production, processing, and drying.

(C) Asphalt production.

(D) Concrete production.

(E) Glass and fiberglass manufacturing.

(F) Foundries.

(G) Foundry residual recovery activities.

(H) Any other process if the crystalline silica emissions are less than 10% of the total PM-10 emissions.

(xvi) Emery.

(xvii) Ethane.

(xviii) Graphite (synthetic).

(xix) Grain dust.

(xx) Helium.

(xxi) Hydrogen.

(xxii) Iron oxide.

(xxiii) Lead.

(xxiv) Liquefied petroleum gas (l.p.g.).

(xxv) Methane.

- (xxvi) Neon.
- (xxvii) Nitrogen.
- (xxviii) Nitrogen oxides.
- (xxix) Nuisance particulates.
- (xxx) Oxygen.
- (xxxi) Ozone.
- (xxxii) Perlite.
- (xxxiii) Portland cement.
- (xxxiv) Propane.
- (xxxv) Silicon.
- (xxxvi) Starch.
- (xxxvii) Sucrose.
- (xxxviii) Sulfur dioxide.
- (xxxix) Vegetable oil mist.
- (xl) Water vapor.
- (xli) Zinc metal dust.

(g) "Toxicological interaction" means the simultaneous exposure to 2 or more hazardous substances which will produce a toxicological response that is greater or less than their individual responses.

(h) "Transfer efficiency" means the percentage of coating solids material that leaves the coating applicator and remains on the surface of the product.

(i) "True vapor pressure" means the equilibrium partial pressure exerted by a liquid or the sum of partial pressures exerted by a mixture of liquids. For refined petroleum stock (gasolines and naphthas) and crude oil, the "true vapor pressure" may be determined in accordance with methods described in American petroleum institute bulletin MPMS C19 S2, "MANUAL OF PETROLEUM MEASUREMENT STANDARDS, CHAPTER 19, EVAPORATIVE LOSS MEASUREMENTS, SECTION 2, EVAPORATIVE LOSS FROM FLOATING ROOFS," 1997. American petroleum institute bulletin MPMS C19 S2 is adopted in these rules by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of \$116.00. A copy may also be obtained from the GLOBAL ENGINEERING DOCUMENTS, HIS COMPANY, 15 INVERNESS WAY EAST, ENGLEWOOD, COLORADO 80112, at a cost as of the time of adoption of these rules of \$116.00.

---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**GENERAL INDUSTRY SAFETY STANDARDS**

Filed with the Secretary of State on  
These rules take effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by sections 16 and 21 of 1974 PA 154, and Executive Reorganization Order No. 1996-2, MCL 408.1016, 408.1021, and 445.2001)

R 408.11801, R 408.11803, R 408.11804, R 408.11805, R 408.11806, R 408.11821, R 408.11822, R 408.11824, R 408.11825, R 408.11835, R 408.11841, R 408.11843, R 408.11845, R 408.11847, R 408.11851, R 408.11852, R 408.11853, R 408.11855, R 408.11857, R 408.11859, R 408.11861, R 408.11865, R 408.11871, R 408.11872, and R 408.11875 of the Michigan Administrative Code are amended; R 408.11826 and R 408.11837 of the Michigan Administrative Code are rescinded; and R 408.11807, R 408.11808, R 408.11827, R 408.11833, R 408.11844, R 408.11854, R 408.11873, and R 408.11874 are added to the Code as follows:

**PART 18. OVERHEAD AND GANTRY CRANES**

**GENERAL PROVISIONS**

**R 408.11801 Scope.**

Rule 1801. This part covers the equipment, installation, maintenance and operation of top running overhead and gantry single and multiple girder cranes in, about, and around places of employment in order to safeguard employees. It does not apply to ~~top running overhead cranes with push type bridge and trolley~~, monorails, railway or truck cranes, mine hoists, conveyors, shovels, drag-line excavators, equipment used on construction jobs, or to systems used to transport people.

**R 408.11803 Definitions; B and C. TO D.**

Rule 1803. (1) "Brake" means a device used for retarding or stopping motion by friction or power means.

(2) "Bridge" means that part of a crane consisting of girders, trucks, end ties, footwalks, and THE driving mechanism WHICH CARRIES THE TROLLEY OR TROLLEYS.

(3) "BUMPER" MEANS AN ENERGY-ABSORBING DEVICE FOR REDUCING IMPACT WHEN A MOVING CRANE OR TROLLEY REACHES THE END OF ITS PERMITTED TRAVEL, OR WHEN 2 MOVING CRANES OR TROLLEY COME IN CONTACT.

(4) ~~(3)~~ "Cab" means an operator compartment located on a crane bridge or trolley.

(5) "CAB OPERATED CRANE" MEANS A CRANE CONTROLLED BY AN OPERATOR IN A CAB LOCATED ON THE BRIDGE OR TROLLEY.

(6) "CATWALK" MEANS A WALKWAY WITH HANDRAIL AND TOEBOARDS WHICH ARE ATTACHED TO THE BRIDGE OR TROLLEY, OR BOTH, FOR ACCESS PURPOSES.

(7) "COMPETENT PERSON" MEANS A PERSON WHO HAS THE NECESSARY EXPERIENCE OF THE CRANE AND EQUIPMENT USED IN THE LIFTING OPERATION TO CARRY OUT THE FUNCTION SATISFACTORILY, WHO IS CAPABLE OF IDENTIFYING AN EXISTING OR POTENTIAL HAZARD IN SURROUNDINGS, OR UNDER WORKING CONDITIONS,

THAT ARE HAZARDOUS OR DANGEROUS TO AN EMPLOYEE, AND WHO HAS THE AUTHORITY AND KNOWLEDGE TO TAKE PROMPT CORRECTIVE MEASURES TO ELIMINATE THE HAZARDS.

(8) "COLLECTOR SHOE" MEANS A CONTACTING DEVICE FOR COLLECTING CURRENT FROM RUNWAY OR BRIDGE CONDUCTORS.

(9) "CONDUCTORS, BRIDGE" MEANS THE ELECTRICAL CONDUCTORS LOCATED ALONG THE BRIDGE STRUCTURE OF A CRANE TO PROVIDE POWER TO THE TROLLEY.

(10) "CONDUCTORS, RUNWAY" MEANS THE ELECTRICAL CONDUCTORS LOCATED ALONG A CRANE RUNWAY TO PROVIDE POWER TO THE CRANE.

(11) ~~(4)~~ "Controller" means ~~a device with a handle or push button that controls the motion of a crane.~~ A MACHINE FOR LIFTING AND LOWERING A LOAD AND MOVING IT HORIZONTALLY, WITH A HOISTING MECHANISM AN INTEGRAL PART OF THE MACHINE.

(12) ~~(5)~~ "Crane" means a top running overhead or gantry crane.

(13) "DESIGNATED" MEANS SELECTED OR ASSIGNED BY THE EMPLOYER OR THE EMPLOYER'S REPRESENTATIVE AS BEING QUALIFIED TO PERFORM SPECIFIC DUTIES.

(14) "DRAG BRAKE" MEANS A BRAKE THAT PROVIDES RETARDING FORCE WITHOUT EXTERNAL CONTROL.

#### **R 408.11804 Definitions; F to M.**

Rule 1804. (1) "Floor-operated crane" means a top running overhead crane THAT ~~which~~ is controlled by an operator on a floor or independent platform.

(2) "FOOTWALK" MEANS A WALKWAY WHICH HAS A HANDRAIL AND WHICH IS ATTACHED TO THE BRIDGE OR TROLLEY FOR ACCESS PURPOSES.

(3) "FREQUENT INSPECTION" MEANS A VISUAL EXAMINATION BY THE OPERATOR OR OTHER DESIGNATED PERSONNEL, WITH WRITTEN RECORDS REQUIRED.

- (4) ~~(2)~~ "Gantry crane" means a crane similar to an overhead crane, except that the bridge for carrying the trolley or trolleys is rigidly supported by 1 or more legs running on a fixed rail or other runway.
- (5) "HOIST" MEANS A SYSTEM OF POWER-DRIVEN DRUMS, GEARS, CABLES, CHAINS, OR HYDRAULIC CYLINDERS CAPABLE OF LIFTING AND LOWERING A LOAD.
- (6) ~~(3)~~ "Hooker" means an employee who BY USING PREDETERMINED LIFT POINTS attaches the load to the hook, in hoisting or setting the load or both.
- (7) ~~(4)~~ "Hot metal crane" means a crane THAT ~~which~~ transports molten metal.
- (8) "LIMIT SWITCH" MEANS A SWITCH THAT IS OPERATED BY SOME PART OR MOTION OF A POWER-DRIVEN MACHINE OR EQUIPMENT TO ALTER THE ELECTRIC CURRENT ASSOCIATED WITH THE MACHINE OR EQUIPMENT.
- (9) ~~(5)~~ "Load" means the total superimposed weight on a load block or hook.
- (10) "LOAD BLOCK" MEANS THE ASSEMBLY OF HOOK AND SHACKLE, SWIVEL BEARING, SHEAVES, PINS, AND FRAME, SUSPENDED BY THE HOISTING ROPES OR CHAIN.
- (11) "MAGNET" MEANS AN ELECTROMAGNETIC DEVICE CARRIED ON A CRANE HOOK THAT PICKS UP THE LOAD MAGNETICALLY.
- (12) ~~(6)~~ "Main switch" means a switch on a crane controlling the entire power supply to the crane, except that a magnet and convenience outlet circuit may bypass the main switch.
- (13) ~~(7)~~ "Modified" means a change in design or rating.

**R 408.11805 Definitions; O to R.**

- Rule 1805. (1) "Overhead crane" means a top running crane THAT HAS ~~with~~ a movable bridge carrying a movable or fixed hoisting mechanism for lifting and lowering, moving horizontally and traveling on an overhead fixed runway.
- (2) "PERIODIC INSPECTION" MEANS THE INSPECTION OF THE EQUIPMENT IN PLACE BY A DESIGNATED PERSON, MAKING WRITTEN RECORDS OF CONDITIONS.
- (3) "POWER-OPERATED CRANE" MEANS A CRANE THAT HAS ITS MECHANISM DRIVEN BY ELECTRIC, AIR, HYDRAULIC, OR INTERNAL COMBUSTION MEANS.
- (4) ~~(2)~~ "Preformed" means to permanently shape wire rope before fabrication into helical form.
- (5) ~~(3)~~ "Pulpit" means an operator compartment for a crane located at a fixed position remote from the crane.
- (6) "QUALIFIED PERSON" MEANS A PERSON WHO, THROUGH ATTAINMENT OF A RECOGNIZED DEGREE OR CERTIFICATE OF PROFESSIONAL STANDING OR BY EXTENSIVE KNOWLEDGE, TRAINING, AND EXPERIENCE, HAS SUCCESSFULLY DEMONSTRATED THE ABILITY TO SOLVE OR RESOLVE PROBLEMS RELATING TO THE SUBJECT MATTER AND WORK.
- (7) ~~(4)~~ "Rail stop" means a device attached to a rail to stop the movement of a crane beyond a fixed point.
- (8) "RATED LOAD" MEANS THE MAXIMUM LOAD FOR WHICH A CRANE OR INDIVIDUAL HOIST IS DESIGNED AND BUILT BY THE MANUFACTURER AND SHOWN ON THE EQUIPMENT NAMEPLATE OR NAMEPLATES.



- (9) "REMOTE-OPERATED CRANE" MEANS A CRANE CONTROLLED BY AN OPERATOR NOT IN A PULPIT OR IN THE CAB ATTACHED TO THE CRANE, BY ANY METHOD OTHER THAN PENDANT OR ROPE CONTROL.
- (10) "RIGGER" MEANS AN EMPLOYEE WHO PREPARES HEAVY EQUIPMENT OR LOADS OF MATERIALS FOR LIFTING.
- (11) "ROPE" MEANS WIRE ROPE, UNLESS OTHERWISE SPECIFIED.
- (12) "RUNNING SHEAVE" MEANS A SHEAVE THAT ROTATES AS THE LOAD BLOCK IS RAISED OR LOWERED.
- (13) "RUNWAY" MEANS AN ASSEMBLY OF RAILS, BEAMS, GIRDERS, BRACKETS, AND FRAMEWORK ON WHICH A CRANE OR TROLLEY TRAVELS.

**R 408.11806 Definitions; S TO W.**

Rule 1806. (1) "Safety factor" means the ratio of the breaking strength of a piece of material or object to the actual load or stress when in use.

- (2) "Seizing" means to bind the end of a wire rope with a soft annealed iron wire.
- (3) "Side pull" means to pull a load with a hoist, chain or cable other than vertically.
- (4) "STOP DEVICE" MEANS A DEVICE TO LIMIT TRAVEL OF A TROLLEY OR CRANE BRIDGE. IT IS NORMALLY ATTACHED TO A FIXED STRUCTURE AND NORMALLY DOES NOT HAVE ENERGY-ABSORBING ABILITY.
- (5) ~~(4)~~ "Storage gantry crane" means a gantry type crane of long span usually used for bulk storage of materials. The bridge girders are supported on 1 or more legs. It may have 1 or more fixed or hinged cantilever ends.
- (6) ~~(5)~~ "Swaged socket" means a fitting into which wire rope is inserted and attached by cold forming.
- (7) "SWITCH" MEANS A DEVICE FOR MAKING, BREAKING, OR FOR CHANGING THE CONNECTIONS IN AN ELECTRIC CIRCUIT.
- (8) "TROLLEY" MEANS A UNIT THAT TRAVELS ON THE BRIDGE RAILS AND CARRIES THE HOISTING MECHANISM.
- (9) "TROLLEY TRAVEL" MEANS THE TROLLEY MOVEMENT AT RIGHT ANGLES TO THE CRANE RUNWAY.
- (10) "TRUCK" MEANS THE UNIT CONSISTING OF A FRAME, WHEELS, BEARING, AND AXLES THAT SUPPORTS THE BRIDGE GIRDERS OR TROLLEYS.
- (11) "WALL CRANE" MEANS A CRANE WHICH HAS A JIB WITH OR WITHOUT TROLLEY AND WHICH IS SUPPORTED FROM A SIDEWALL OR LINE OF COLUMNS OF A BUILDING. IT IS A TRAVELING TYPE AND OPERATES ON A RUNWAY ATTACHED TO THE SIDEWALL OR COLUMNS.

**R 408.11807 ADOPTION OF STANDARDS BY REFERENCE.**

RULE 1807. (1) THE STANDARDS SPECIFIED IN THIS RULE, EXCEPT FOR THE STANDARDS SPECIFIED IN SUBRULE (2) OF THIS RULE, ARE ADOPTED BY REFERENCE. (A) THE FOLLOWING AMERICAN SOCIETY OF MECHANICAL ENGINEERS STANDARDS, WHICH ARE AVAILABLE FROM GLOBAL ENGINEERING DOCUMENTS, 15 INVERNESS WAY EAST, ENGLEWOOD, COLORADO, 80112, USA, TELEPHONE NUMBER: 1-800-854-7179 OR VIA THE

INTERNET AT WEB-SITE: [HTTP://GLOBAL.IHS.COM](http://GLOBAL.IHS.COM), AT A COST AS OF THE TIME OF ADOPTION OF THESE AMENDMENTS, AS STATED IN THIS SUBDIVISION:

- (i) AMERICAN NATIONAL STANDARD INSTITUTE STANDARD ANSI B30.2, FOR "OVERHEAD AND GENTRY CRANES TOP RUNNING BRIDGE, SINGLE OR MULTIPLE GIRDER, TOP RUNNING TROLLEY HOIST", 1996 EDITION. COST: \$73.00.
- (ii) AMERICAN SOCIETY OF MECHANICAL ENGINEERS STANDARD ASME B30.17, FOR "OVERHEAD AND GANTRY CRANES (TOP RUNNING BRIDGE, SINGLE GIRDER, UNDERHUNG HOIST)," 1998 EDITION. COST: \$62.00.

BOTH STANDARDS ARE ALSO AVAILABLE FOR INSPECTION AT THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, MIOSHA STANDARDS DIVISION, 7150 HARRIS DRIVE, P.O. BOX 30643, LANSING, MICHIGAN 48909-8143.

(B) "NATIONAL ELECTRICAL CODE," 2002 EDITION, IS AVAILABLE FROM THE NATIONAL FIRE PROTECTION ASSOCIATION, 1 BATTERYMARCH PARK, P.O. BOX 9101, QUINCY, MASSACHUSETTS, 02269-9101, USA; TELEPHONE NUMBER: 617-770-3000; OR VIA THE INTERNET AT WEB-SITE: [WWW.NFPA.ORG](http://WWW.NFPA.ORG), AT A COST AS OF THE TIME OF ADOPTION OF THIS AMENDMENT OF \$54.00 AND IS AVAILABLE FOR REVIEW AT THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, MIOSHA STANDARDS DIVISION, 7150 HARRIS DRIVE, P.O. BOX 30643, LANSING, MICHIGAN 48909-8143.

(2) THE FOLLOWING MICHIGAN OCCUPATIONAL SAFETY STANDARDS ARE AVAILABLE AT NO CHARGE FROM THE MICHIGAN DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, MIOSHA STANDARDS DIVISION, 7150 HARRIS DRIVE, P.O. BOX 30643, LANSING, MICHIGAN, 48908-8143, OR VIA THE INTERNET AT WEB-SITE: [WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD](http://WWW.CIS.STATE.MI.US/BSR/DIVISIONS/STD).

(A) GENERAL INDUSTRY SAFETY STANDARD PART 2. "FLOOR AND WALL OPENINGS, STAIRWAYS AND SKYLIGHTS," BEING R 408.10201 ET SEQ.

(B) GENERAL INDUSTRY SAFETY STANDARD PART 3. "FIXED LADDERS," BEING R 408.10301 ET SEQ.

(C) GENERAL INDUSTRY SAFETY STANDARD PART 7. "GUARDS FOR POWER TRANSMISSION," BEING R 408.10701 ET SEQ.

(D) GENERAL INDUSTRY SAFETY STANDARD PART 33. "PERSONAL PROTECTIVE EQUIPMENT," BEING R 408.13301 ET SEQ.

(E) GENERAL INDUSTRY SAFETY STANDARD PART 39. "DESIGN SAFETY STANDARDS FOR ELECTRICAL SYSTEMS," BEING R 408.13901 ET SEQ.

(F) GENERAL INDUSTRY SAFETY STANDARD PART 40. "ELECTRICAL SAFETY-RELATED WORK PRACTICES", BEING R 408.14001 ET SEQ.

(G) GENERAL INDUSTRY SAFETY STANDARD PART 49. "SLINGS," BEING R 408.14901 ET SEQ.

(H) GENERAL INDUSTRY SAFETY STANDARD PART 85. "LOCKOUT/TAGOUT," BEING R 408.18501 ET SEQ.

(I) CONSTRUCTION SAFETY STANDARD PART 10. "LIFTING AND DIGGING EQUIPMENT," BEING R 408.41001 ET SEQ.

(J) CONSTRUCTION SAFETY STANDARD PART 45. "FALL PROTECTION," BEING R 408.44501 ET SEQ.

**R 408.11808 EMPLOYER RESPONSIBILITIES.**

RULE 1808. (1) AN EMPLOYER SHALL COMPLY WITH THE MANUFACTURER'S SPECIFICATIONS AND LIMITATIONS APPLICABLE TO THE OPERATION OF CRANES. IF A MANUFACTURER'S SPECIFICATIONS ARE NOT AVAILABLE, THEN THE LIMITATIONS ASSIGNED TO THE EQUIPMENT SHALL BE BASED ON THE DETERMINATION OF A QUALIFIED ENGINEER WHO IS COMPETENT IN THE FIELD OF EQUIPMENT LIMITATIONS, AND THE DETERMINATION SHALL BE APPROPRIATELY DOCUMENTED AND RECORDED. ATTACHMENTS THAT ARE USED WITH CRANES SHALL NOT EXCEED THE CAPACITY, RATING, OR SCOPE RECOMMENDED BY THE MANUFACTURER.

(2) AN EMPLOYER SHALL DESIGNATE A QUALIFIED PERSON TO PERFORM ALL INSPECTIONS OF CRANES AS REQUIRED BY THIS PART.

(3) AN EMPLOYER SHALL LIMIT THE USE OF A CRANE TO THE FOLLOWING ENTITIES:

(A) AN EMPLOYEE WHO HAS BEEN TRAINED AND QUALIFIED TO OPERATE THE TYPE OF CRANE TO WHICH HE OR SHE IS ASSIGNED.

(B) A LEARNER WHO IS UNDER THE DIRECT SUPERVISION OF A DESIGNATED OPERATOR.

(C) AUTHORIZED MAINTENANCE PERSONNEL WHILE PERFORMING THEIR DUTIES.

(4) AN EMPLOYER SHALL MAINTAIN A CRANE AND ITS ACCESSORIES IN A CONDITION THAT WILL NOT ENDANGER AN OPERATOR OR OTHER EMPLOYEES.

(5) THE ORIGINAL SAFETY FACTOR OF THE EQUIPMENT SHALL NOT BE REDUCED IF MODIFICATIONS OR CHANGES ARE MADE TO THE EQUIPMENT. MODIFICATIONS OR CHANGES SHALL BE CERTIFIED BY A QUALIFIED REGISTERED ENGINEER. THE CAPACITY, OPERATION, AND MAINTENANCE INSTRUCTION PLATES, TAGS, OR DECALS SHALL BE CHANGED ACCORDINGLY TO REFLECT ANY MODIFICATIONS OR CHANGES.

(6) AN EMPLOYER SHALL COMPLY WITH ALL OTHER APPLICABLE REQUIREMENTS OF THIS PART.

(7) THE MANUAL PROVIDED BY THE CRANE MANUFACTURER SHALL BE READILY ACCESSIBLE FOR THE CRANE OPERATOR'S REFERENCE AT THE WORK SITE.

CONSTRUCTION, INSTALLATION AND EQUIPMENT

**R 408.11821 Certification; modification; guards; ADOPTION OF STANDARDS BY REFERENCE. ~~and incorporation of standards.~~**

Rule 1821. (1) A TOP RUNNING OR GANTRY CRANE CONSISTING OF A TOP RUNNING BRIDGE WITH SINGLE OR MULTIPLE GIRDERS AND A TOP RUNNING TROLLEY HOIST, ERECTED OR MODIFIED AFTER JUNE 24, 1973, SHALL BE CERTIFIED BY A CRANE MANUFACTURER OR AN ENGINEER KNOWLEDGEABLE IN CRANE CONSTRUCTION, THAT THE NEW CONSTRUCTION OR INSTALLATION, OR MODIFICATION CONFORMS TO THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS STANDARD B30.2 "OVERHEAD AND GANTRY CRANES TOP RUNNING

BRIDGE, SINGLE OR MULTIPLE GIRDER, TOP RUNNING TROLLEY HOIST" 1996 EDITION, WHICH IS ADOPTED BY REFERENCE IN R 408.11807.

(2) A TOP RUNNING OR GANTRY CRANE CONSISTING OF A TOP RUNNING BRIDGE WITH A SINGLE GIRDER AND AN UNDERHUNG HOIST, ERECTED OR MODIFIED AFTER AUGUST 31, 1971 SHALL BE CERTIFIED BY A CRANE MANUFACTURER OR AN ENGINEER KNOWLEDGEABLE IN CRANE CONSTRUCTION, THAT THE NEW CONSTRUCTION OR INSTALLATION, OR MODIFICATION CONFORMS TO THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS STANDARD B30.17 "OVERHEAD AND GANTRY CRANES (TOP RUNNING BRIDGE, SINGLE GIRDER, UNDERHUNG HOIST)" 1998 EDITION, WHICH IS ADOPTED BY REFERENCE IN R 408.11807.

(3) GEARS, COUPLINGS AND OTHER MEANS OF POWER TRANSMISSION, EXCEPT SHAFTS, WHERE EXPOSED TO CONTACT, SHALL BE GUARDED AS PRESCRIBED IN GENERAL INDUSTRY SAFETY STANDARD PART 7. "GUARDS FOR POWER TRANSMISSION," BEING R 408.10701 ET SEQ., WHICH IS REFERENCED IN R 408.11807.

(4) A TOP RUNNING OR GANTRY CRANE CONSISTING OF A TOP RUNNING BRIDGE WITH SINGLE OR MULTIPLE GIRDERS AND A TOP RUNNING TROLLEY HOIST MAY BE MODIFIED OR RERATED IF THE MODIFICATIONS AND THE SUPPORTING STRUCTURE ARE CHECKED THOROUGHLY BY A QUALIFIED ENGINEER OR THE EQUIPMENT MANUFACTURER AND CONFORM TO THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS STANDARD B30.2 "OVERHEAD AND GANTRY CRANES TOP RUNNING BRIDGE, SINGLE OR MULTIPLE GIRDER, TOP RUNNING TROLLEY HOIST" 1996 EDITION, WHICH IS ADOPTED BY REFERENCE IN R 408.11807.

(5) A TOP RUNNING OR GANTRY CRANE CONSISTING OF A TOP RUNNING BRIDGE WITH A SINGLE GIRDER AND AN UNDERHUNG HOIST MAY BE MODIFIED OR RERATED IF THE MODIFICATIONS AND THE SUPPORTING STRUCTURE ARE CHECKED THOROUGHLY BY A QUALIFIED ENGINEER OR THE EQUIPMENT MANUFACTURER AND CONFORM TO THE AMERICAN SOCIETY OF MECHANICAL ENGINEERS STANDARD B30.17 "OVERHEAD AND GANTRY CRANES (TOP RUNNING BRIDGE, SINGLE GIRDER, UNDERHUNG HOIST)" 1996 EDITION, WHICH IS ADOPTED BY REFERENCE IN R 408.11807.

~~(1) A top running or gantry crane erected or modified after June 24, 1973 shall be certified, by a crane manufacturer or an engineer knowledgeable in crane construction, that the new construction or installation, or modification conforms to Chapter 2-1 of the American National Standard Safety Code for Overhead and Gantry Cranes, USAS standard B30.2.0-1967, Chapter 2-1 of which is incorporated herein by reference. This standard may be purchased from the American National Standards Institute, 1430 Broadway, New York, New York 10018, or from the Michigan Department of Consumer and Industry Services, State Secondary Complex, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909, at a cost of \$3.50 each. This standard may be inspected at the Lansing office of the department of consumer and industry services.~~

~~(2) Gears and other means of power transmission, except shafts, were exposed to contact, shall be guarded as prescribed in rule 731 of the general industry safety standards~~

~~commission standard Part 7-Guards for Power Transmission,= being R 408.10731 of the Michigan Administrative Code.~~

~~(3) A crane, except a top running crane with an underhung, single girder hoist trolley, installed after August 31, 1971, shall be modified to conform to Chapter 2-1 of the Chapter 2-1 of ANSI B30.2.0-1967, Overhead and Gantry Cranes, which is incorporated herein by reference and may be inspected at the Lansing office of the department of consumer and industry services. This standard may be purchased at a cost of \$3.50 from the American National Standards Institute, 1430 Broadway, New York, New York 10018, or from the Michigan Department of Consumer and Industry Services, State Secondary Complex, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

**R 408.11822 Marking rated capacity; CLASSIFICATIONS; CLEARANCES.**

Rule 1822. (1) The rated capacity of a crane shall be legibly marked on each side of the crane. MARKINGS SHALL BE LEGIBLE FROM THE GROUND OR FLOOR. EACH LOAD BLOCK OF THE HOISTING UNITS OF THE CRANE SHALL BE LEGIBLY MARKED WITH ITS INDIVIDUAL RATED CAPACITY. ~~and if the crane has more than 1 hoisting unit, each unit shall have its rated capacity marked on it or its load block and this marking shall be legible from the ground or floor.~~

(2) THE SERVICE CLASS RATING SHALL BE INDICATED ON THE CRANE.

(3) CLEARANCE FROM OBSTRUCTIONS SHALL BE A MINIMUM OF 3 INCHES OVERHEAD AND 2 INCHES Laterally BETWEEN THE CRANE AND ANY OBSTRUCTION.

(4) RUNWAYS OF PARALLEL CRANES THAT DO NOT HAVE AN INTERVENING WALL OR STRUCTURE SHALL HAVE ADEQUATE CLEARANCE BETWEEN THE 2 BRIDGES.

(5) THE CAB OF A CRANE SHALL BE LOCATED TO AFFORD A MINIMUM OF 3 INCHES CLEARANCE FROM ALL FIXED STRUCTURES WITHIN ITS AREA OF POSSIBLE MOVEMENT.

**R 408.11824 Wire rope.**

Rule 1824. (1) A wire rope used on a crane shall be repaired or replaced IN ANY OF THE FOLLOWING CIRCUMSTANCES: ~~if:~~

~~(a) Within a segment of 8 diameters in length, the total number of broken wires exceeds 10% of the total number of wires.~~

~~(b) The wire rope has been kinked, crushed or bird-caged, or has sustained any other damage which distorts the wire rope structure.~~

(A) ONE THIRD OR MORE OF THE ORIGINAL DIAMETER OF THE OUTSIDE INDIVIDUAL WIRES IS WORN.

(B) THERE IS KINKING, CRUSHING, BIRD-CAGING, OR ANY OTHER DAMAGE THAT RESULTS IN DISTORTION OF THE RUNNING PORTION OF THE WIRE ROPE STRUCTURE.

(c) The wire rope shows heat or corrosive damage.

(D) IN RUNNING ROPES, THERE ARE 6 RANDOMLY DISTRIBUTED BROKEN WIRES IN 1 LAY OR 3 BROKEN WIRES ON 1 STRAND IN 1 LAY. IN ROTATION-RESISTANT ROPES, 2 RANDOMLY DISTRIBUTED BROKEN WIRES IN 6 ROPE

DIAMETERS OR 4 RANDOMLY DISTRIBUTED BROKEN WIRES IN 30 ROPE DIAMETERS.

(E) THERE ARE REDUCTIONS FROM NOMINAL DIAMETER OF MORE THAN THE FOLLOWING:

- (i) ONE SIXTY-FORTH OF AN INCH FOR A DIAMETER TO AND INCLUDING 5/16 OF AN INCH.
- (ii) ONE THIRTY-SECOND OF AN INCH FOR A DIAMETER 3/8 OF AN INCH TO AND INCLUDING 1/2 OF AN INCH.
- (iii) THREE SIXTY-FOURTHS OF AN INCH FOR A DIAMETER 9/16 OF AN INCH TO AND INCLUDING 3/4 OF AN INCH.
- (iv) ONE SIXTEENTH OF AN INCH FOR A DIAMETER 7/8 OF AN INCH TO AND INCLUDING 1 1/8 INCHES.
- (v) THREE THIRTY-SECONDS OF AN INCH FOR A DIAMETER 1 1/4 INCHES TO AND INCLUDING 1 1/2 INCHES.

(F) IN STANDING ROPES, THERE ARE MORE THAN 2 BROKEN WIRES IN 1 LAY IN SECTIONS BEYOND END CONNECTIONS OR MORE THAN 1 BROKEN WIRE AT AN END CONNECTION.

(2) Wire rope discarded from a crane UNDER ~~because of~~ subrule (1) OF THIS RULE shall not be used for ~~a sling~~. ANY OTHER LOAD-CARRYING SERVICE.

(3) Wire rope for a crane bent to form an eye shall be equipped with a metal thimble.

(4) ~~An~~ A WIRE ROPE end fitting shall be a clamp, swage, or a zinc or equivalent poured socket. Before cutting wire rope, seizings shall be placed as follows:

- (A) 1 seizing on each side of the cut on preformed wire rope;
- (B) 2 seizings on each side of 7/8 inch size or smaller nonpreformed wire rope.
- (C) ~~and~~ 3 seizings on each side of 1 inch or larger size nonpreformed wire rope.

(5) Wire rope, THAT HAS ~~with~~ an independent wire rope core shall be used on all molten metal applications and in an area where the environmental atmosphere will cause deterioration of a hemp center.

(6) Wire rope shall be stored in a manner to prevent damage or deterioration.

(7) THE UNREELING OR UNCOILING OF WIRE ROPE SHALL BE DONE AS RECOMMENDED BY THE ROPE MANUFACTURER AND WITH CARE TO AVOID KINKING OR INDUCING A TWIST.

(8) ROPE CLIPS ATTACHED WITH U-BOLTS SHALL HAVE THE U-BOLTS ON THE DEAD OR SHORT END OF THE ROPE. SPACING AND NUMBER OF ALL TYPES OF CLIPS SHALL BE IN ACCORDANCE WITH THE CLIP MANUFACTURER'S RECOMMENDATION. CLIPS SHALL BE DROP-FORGED STEEL IN ALL SIZES MANUFACTURED COMMERCIALY. WHEN A NEWLY INSTALLED ROPE HAS BEEN IN OPERATION FOR AN HOUR, ALL NUTS ON THE CLIP BOLTS SHALL BE RETIGHTENED. (SEE APPENDIX "A")

(9) REPLACEMENT ROPE SHALL MEET OR EXCEED THE ORIGINAL SPECIFICATIONS SET FORTH BY THE CRANE MANUFACTURER.

(10) IF A LOAD IS SUPPORTED BY MORE THAN 1 PART OF ROPE, THEN THE TENSION IN THE PARTS SHALL BE EQUALIZED.

**R 408.11825 Hooks; LOAD BLOCKS.**

Rule 1825. (1) A crane hook shall be discarded if EITHER OF THE FOLLOWING PROVISIONS APPLIES:

- (a) The throat opening is more than 15% greater than the manufactured size.
- (b) The hook has more than a 10-degree twist from a vertical center line drawn through the hook socket.
- (2) A HOOK SHALL BE EQUIPPED WITH A LATCH, UNLESS THE APPLICATION MAKES THE USE OF A LATCH IMPRACTICAL AS DETERMINED BY A QUALIFIED PERSON. WHEN REQUIRED, A LATCH SHALL BE PROVIDED TO BRIDGE THE THROAT OPENING OF THE HOOK FOR THE PURPOSE OF RETAINING SLINGS, CHAINS, OR OTHER EQUIPMENT, UNDER SLACK CONDITIONS.
- (3) LOAD BLOCKS SHALL BE OF THE ENCLOSED TYPE AND SHALL BE GUARDED AGAINST ROPE JAMMING DURING NORMAL OPERATIONS.

**R 408.11826 Rescinded.**

**~~R 408.11826. Testing of cranes.~~**

~~—Rule 1826. (1) Before a new or modified crane is put into operation or if a crane has not been used in the past 12 months, the equipment shall be tested to ensure compliance with this part, including the following functions:~~

- ~~(a) Hoisting and lowering.~~
- ~~(b) Trolley travel.~~
- ~~(c) Bridge travel.~~
- ~~(d) Travel limiting devices.~~
- ~~(2) The trip setting of a hoist limit switch shall be determined with an empty hook traveling in increasing speeds up to the maximum speed. The actuating mechanism of the limit switch shall be located so that it will trip the switch, under all conditions, in time to prevent contact of the hook or hook block with the trolley.~~
- ~~(3) When a crane is given a load test, the test load shall be not more than 125% of the rated load. The test reports shall be maintained on a file within the premises where the crane is located.~~

**R 408.11827 SHEAVES.**

RULE 1827. (1) SHEAVE GROOVES SHALL BE SMOOTH AND FREE FROM DEFECTS THAT COULD CAUSE ROPE DAMAGE.

- (2) SHEAVES CARRYING ROPES THAT CAN BE MOMENTARILY UNLOADED SHALL BE PROVIDED WITH CLOSE FITTING GUARDS OR OTHER SUITABLE DEVICES TO GUIDE THE ROPE BACK INTO THE GROOVE WHEN THE LOAD IS APPLIED AGAIN.
- (3) SHEAVES IN THE BOTTOM BLOCK SHALL BE EQUIPPED WITH CLOSE FITTING GUARDS THAT WILL PREVENT ROPES FROM BECOMING FOULED WHEN THE BLOCK IS LYING ON THE GROUND WITH ROPES LOOSE.
- (4) POCKETS AND FLANGES OF SHEAVES USED WITH HOIST CHAINS SHALL BE OF DIMENSIONS THAT THE CHAIN DOES NOT CATCH OR BIND DURING OPERATION.

(5) ALL RUNNING SHEAVES SHALL BE EQUIPPED WITH MEANS FOR LUBRICATION. PERMANENTLY LUBRICATED, SEALED, OR SHIELDED BEARINGS MEET THIS REQUIREMENT.

**R 408.11833 BRIDGE BUMPERS; TROLLEY BUMPERS; RAIL SWEEPS.**

RULE 1833. (1) A CRANE SHALL BE PROVIDED WITH BUMPERS OR OTHER AUTOMATIC MEANS PROVIDING EQUIVALENT EFFECT, UNLESS THE CRANE TRAVELS AT A SLOW RATE OF SPEED AND HAS A FASTER DECELERATION RATE DUE TO THE USE OF SLEEVE BEARINGS, IS NOT OPERATED NEAR THE ENDS OF BRIDGE AND TROLLEY TRAVEL, IS RESTRICTED TO A LIMITED DISTANCE BY THE NATURE OF THE CRANE OPERATION AND THERE IS NO HAZARD OF STRIKING ANY OBJECT IN THE LIMITED DISTANCE, OR IS USED IN SIMILAR OPERATING CONDITIONS. THE BUMPERS SHALL BE CAPABLE OF STOPPING THE CRANE, NOT INCLUDING THE LIFTED LOAD, AT AN AVERAGE RATE OF DECELERATION OF NOT MORE THAN 3 FEET/S/S (PER SECOND, PER SECOND) WHEN TRAVELING IN EITHER DIRECTION AT 20% OF THE RATED LOAD SPEED. BUMPERS SHALL MEET BOTH OF THE FOLLOWING REQUIREMENTS:

(A) A BUMPER SHALL HAVE SUFFICIENT ENERGY-ABSORBING CAPACITY TO STOP THE CRANE WHEN TRAVELING AT A SPEED OF NOT LESS THAN 40% OF RATED LOAD SPEED.

(B) A BUMPER SHALL BE MOUNTED SO THAT THERE IS NO DIRECT SHEAR ON BOLTS.

(2) BUMPERS SHALL BE DESIGNED AND INSTALLED TO MINIMIZE PARTS FALLING FROM THE CRANE IN CASE OF BREAKAGE.

(3) A TROLLEY SHALL BE PROVIDED WITH BUMPERS OR OTHER AUTOMATIC MEANS OF EQUIVALENT EFFECT, UNLESS THE TROLLEY TRAVELS AT A SLOW RATE OF SPEED, IS NOT OPERATED NEAR THE ENDS OF BRIDGE AND TROLLEY TRAVEL, IS RESTRICTED TO A LIMITED DISTANCE OF THE RUNWAY AND THERE IS NO HAZARD OF STRIKING ANY OBJECT IN THE LIMITED DISTANCE, OR IS USED IN SIMILAR OPERATING CONDITIONS. THE BUMPERS SHALL BE CAPABLE OF STOPPING THE TROLLEY, NOT INCLUDING THE LIFTED LOAD, AT AN AVERAGE RATE OF DECELERATION OF NOT MORE THAN 4.7 FEET/S/S (PER SECOND, PER SECOND) WHEN TRAVELING IN EITHER DIRECTION AT 1/3 OF THE RATED LOAD SPEED. TROLLEY BUMPERS SHALL MEET BOTH OF THE FOLLOWING REQUIREMENTS:

(A) WHEN MORE THAN 1 TROLLEY IS OPERATED ON THE SAME BRIDGE, EACH SHALL BE EQUIPPED WITH BUMPERS OR EQUIVALENT ON THEIR ADJACENT ENDS.

(B) BUMPERS OR EQUIVALENT SHALL BE DESIGNED AND INSTALLED TO MINIMIZE PARTS FALLING FROM THE TROLLEY IN CASE OF BROKEN OR LOOSENED MOUNTING CONNECTIONS.

(4) BRIDGE TRUCKS SHALL BE EQUIPPED WITH RAIL SWEEPS THAT EXTEND BELOW THE TOP OF THE RAIL AND PROJECT IN FRONT OF THE TRUCK WHEELS.



**R 408.11835 Ladders; catwalks; FOOTWALKS; STAIRWAYS; escape devices.**

Rule 1835. (1) When a fixed ladder provides access to a crane, it shall be as prescribed in ~~the general industry safety standards commission~~ standard, Part 3. "Fixed Ladders," being R 408.10301, ET SEQ., WHICH IS REFERENCED IN R 408.11807. ~~to R 408.10365 of the Michigan Administrative Code.~~

(2) A FOOTWALK OR A catwalk for or on a crane shall have a standard barrier as prescribed in ~~the general industry safety standards commission~~ standard, Part 2. "Floor and Wall Openings, Stairways and Skylights," being R 408.10201, ET SEQ., WHICH IS REFERENCED IN R 408.11807. ~~to R 408.10241 of the Michigan Administrative Code.~~ A FOOTWALK SHALL BE OF RIGID CONSTRUCTION AND DESIGNED TO SUSTAIN A DISTRIBUTED LOAD OF NOT LESS THAN 50 POUNDS PER SQUARE FOOT, AND SHALL HAVE AN ANTI-SLIP SURFACE.

(3) AN EMPLOYER SHALL ENSURE THAT A SAFE METHOD OF ESCAPE IS PROVIDED IN CASE OF FIRE OR OTHER EMERGENCY SITUATION ON A CAB-OPERATED CRANE.

(4) A GANTRY CRANE SHALL HAVE FIXED LADDERS OR STAIRWAYS EXTENDING FROM THE GROUND TO THE FOOTWALK OR CAB PLATFORM.

**R 408.11837 Rescinded.**

**~~R 408.11837. Temporary wiring.~~**

~~—Rule 1837. Temporary wiring shall be subject to the requirements of the state electrical administrative board.~~

**R 408.11841 Brakes and restraints.**

Rule 1841. (1) An overhead or gantry crane bridge which is powered shall be equipped with an operable brake, non-coasting mechanical drive, or other braking means. The brake or drive shall be capable of stopping the bridge within a distance, in feet, equal to 10% of the full load speed in feet per minute when traveling at full speed with full load.

(2) A trolley of a ~~cab-operated crane with the cab on the trolley~~ shall meet the requirements of subrule (1) OF THIS RULE.

(3) A ~~gantry~~ crane THAT IS BEING used out-of-doors shall HAVE ~~be provided with~~ a positive mechanical restraint, such as, but not limited to, an automatic rail clamp, to secure the crane against wind movement while parked. If clamps act on the rail heads, beads or weld flash on the rail heads shall be ground off. A POSITIVE MECHANICAL RESTRAINT SHALL BE UTILIZED WHEN THE CRANE IS PARKED IN AN AREA WHERE THE POTENTIAL EXPOSURE TO WIND IS PREVALENT.

**R 408.11843 Controls.**

Rule 1843. (1) A PENDANT, RADIO, CAB, PULPIT CONTROL STATION, AND a controller in a cab operated crane shall be permanently identified by function and direction. CONTROL BOXES SHALL BE CONSTRUCTED TO PREVENT ELECTRICAL SHOCK.

(2) Rope controls for a floor-operated crane shall be equipped with an arrow attached to the rope showing the direction of travel when the rope is pulled.

- (3) A pendant, radio, cab, or pulpit control station shall be equipped with a positive stop device, colored red, to disconnect all motors.
- (4) A crane shall be equipped with a main switch which can be locked out. An employer shall establish a WRITTEN lockout procedure which shall be used in connection with R 408.11872 AND R 408.11875. ~~rule 1875.~~ LOCKOUT SHALL CONFORM TO THE REQUIREMENTS PRESCRIBED IN GENERAL INDUSTRY SAFETY STANDARD PART 85. "LOCKOUT/TAGOUT," BEING R 408.18501 ET SEQ., WHICH IS REFERENCED IN R 408.11807.
- (5) A controller on a ROPE, pendant, or radio-controlled crane, when released from the "on" position, shall automatically return to the "off" position.
- (6) A transmitter for a radio-controlled crane shall be stored in a locked cabinet or in a supervised storage area when not in use.
- (7) All cranes shall HAVE ~~be provided with~~ an operable over-travel limit switch in the hoisting direction. The switch shall be located so that it is tripped under all conditions to prevent contact of the hook or block with the hoist.
- (8) A crane THAT IS not equipped with spring return controllers or momentary contact push buttons shall HAVE ~~be provided with~~ a device which will disconnect all motors from the line IF POWER FAILS ~~on failure of power~~ and WHICH will not permit restarting until the controller handle is brought to the off position or a reset switch or button is operated.
- (9) THE CONTROL CIRCUIT VOLTAGE SHALL NOT BE MORE THAN 600 VOLTS FOR A.C. OR D.C. CURRENT.
- (10) THE VOLTAGE AT PENDANT PUSH-BUTTONS SHALL NOT BE MORE THAN 150 VOLTS FOR A.C. AND 300 VOLTS FOR D.C.
- (11) IF MULTIPLE CONDUCTOR CABLE IS USED WITH A SUSPENDED PUSH-BUTTON STATION, THEN THE STATION SHALL BE SUPPORTED IN A MANNER THAT WILL PROTECT THE ELECTRICAL CONDUCTORS AGAINST STRAIN.
- (12) CAB-OPERATED CRANES SHALL HAVE LEVER-OPERATED MANUAL CONTROLLERS AND MASTER SWITCHES THAT HAVE A SPRING-RETURN ARRANGEMENT, OFF-POINT DETENT, OR OFF-POINT LATCH. THE CONTROLLER OPERATING HANDLE SHALL BE LOCATED WITHIN REACH OF THE OPERATOR AND, AS FAR AS PRACTICABLE, THE MOVEMENT OF EACH CONTROLLER HANDLE SHALL BE IN THE SAME GENERAL DIRECTIONS OF THE RESULTANT MOVEMENTS OF THE LOAD.
- (13) EQUIPMENT AND WIRING SHALL BE AS PRESCRIBED IN GENERAL INDUSTRY SAFETY STANDARD PART 39. "DESIGN SAFETY STANDARDS FOR ELECTRICAL SYSTEMS," BEING R 408.13901 ET SEQ., WHICH IS REFERENCED IN R 408.11807.
- (14) THE CONTROL FOR THE BRIDGE AND TROLLEY TRAVEL SHALL BE LOCATED SO THAT THE OPERATOR CAN FACE THE DIRECTION OF TRAVEL.
- (15) PUSH BUTTONS IN PENDANT STATIONS SHALL RETURN TO THE ABOVE POSITION WHEN RELEASED BY THE OPERATOR.
- (16) AUTOMATIC CRANES SHALL BE DESIGNED SO THAT ALL MOTIONS WILL FAILSAFE IF ANY MALFUNCTION OF OPERATION OCCURS.

(17) A REMOTE-OPERATED CRANE SHALL FUNCTION SO THAT IF THE CONTROL SIGNAL FOR ANY CRANE MOTION BECOMES INEFFECTIVE, THE CRANE MOTION SHALL STOP.

**R 408.11844 EQUIPMENT.**

RULE 1844. (1) ELECTRICAL EQUIPMENT SHALL BE LOCATED OR ENCLOSED SO THAT LIVE PARTS WILL NOT BE EXPOSED TO ACCIDENTAL CONTACT UNDER NORMAL OPERATING CONDITIONS.

(2) CLEARANCES OF 2 1/2 FEET (762 MM) FROM ELECTRICAL EQUIPMENT SHALL BE MAINTAINED IN ACCORDANCE WITH ARTICLE 610-57 OF THE 2002 EDITION OF THE "NATIONAL ELECTRICAL CODE," WHICH IS ADOPTED BY REFERENCE IN R 408.11807.

(3) ELECTRIC EQUIPMENT SHALL BE PROTECTED FROM DIRT, GREASE, OIL, AND MOISTURE.

(4) GUARDS FOR LIVE PARTS SHALL BE SUBSTANTIAL AND LOCATED SO THAT THEY CANNOT BE ACCIDENTALLY DEFORMED TO MAKE CONTACT WITH LIVE PARTS.

(5) ENCLOSURES FOR RESISTORS SHALL HAVE OPENINGS TO PROVIDE ADEQUATE VENTILATION AND SHALL BE INSTALLED TO PREVENT THE ACCUMULATION OF COMBUSTIBLE MATTER TOO NEAR TO HOT PARTS. RESISTOR UNITS SHALL BE SUPPORTED TO BE FREE AS POSSIBLE FROM VIBRATION.

(6) THE POWER SUPPLY TO THE RUNWAY CONDUCTORS SHALL BE CONTROLLED BY A SWITCH OR CIRCUIT BREAKER WHICH IS LOCATED ON A FIXED STRUCTURE, WHICH IS ACCESSIBLE FROM THE FLOOR, AND WHICH IS CAPABLE OF BEING LOCKED IN THE OPEN POSITION.

(A) A SWITCH OR CIRCUIT BREAKER WHICH IS OF THE ENCLOSED TYPE AND WHICH IS CAPABLE OF BEING LOCKED IN THE OPEN POSITION SHALL BE PROVIDED IN THE LEADS FROM THE RUNWAY CONDUCTORS ON A CAB-OPERATED CRANE. A MEANS OF OPENING THE SWITCH OR CIRCUIT SHALL BE LOCATED WITHIN REACH OF THE OPERATOR.

(B) A SWITCH OR CIRCUIT BREAKER WHICH IS OF THE ENCLOSED TYPE AND WHICH IS CAPABLE OF BEING LOCKED IN THE OPEN POSITION SHALL BE PROVIDED IN THE LEADS FROM THE RUNWAY CONDUCTORS ON A FLOOR-OPERATED CRANE. THE DISCONNECT SHALL BE MOUNTED ON THE BRIDGE OR FOOTWALKS NEAR THE RUNWAY CONDUCTORS. ONE OF THE FOLLOWING TYPES OF FLOOR-OPERATED DISCONNECTS SHALL BE PROVIDED:

(i) NONCONDUCTIVE ROPE ATTACHED TO THE MAIN SWITCH.

(ii) AN UNDER-VOLTAGE TRIP FOR THE MAIN CIRCUIT BREAKER OPERATED BY AN EMERGENCY STOP BUTTON IN THE PENDANT PUSH BUTTON IN THE PENDANT PUSHBUTTON STATION.

(iii) A MAIN LINE CONTACTOR OPERATED BY A SWITCH OR PUSHBUTTON IN THE PENDANT PUSHBUTTON STATION.

(7) A CRANE USING A LIFTING MAGNET SHALL HAVE A SEPARATE MAGNET CIRCUIT SWITCH WHICH IS OF THE ENCLOSED TYPE AND WHICH IS CAPABLE

OF BEING LOCKED IN THE OPEN POSITION. MEANS FOR DISCHARGING THE INDUCTIVE LOAD OF THE MAGNET SHALL BE PROVIDED.

(8) RUNWAY CONDUCTORS OF THE OPEN TYPE MOUNTED ON THE CRANE RUNWAY BEAMS OR OVERHEAD SHALL BE LOCATED OR GUARDED SO THAT PERSONS ENTERING OR LEAVING THE CAB OR CRANE FOOTWALK WILL NOT COME INTO CONTACT WITH THEM. ON THE EFFECTIVE DATE OF THIS RULE, OPEN TYPE CONDUCTORS SHALL NOT BE INSTALLED ON CAB-OPERATED RUNWAY BEAMS.

(9) WHEN A SERVICE RECEPTACLE FOR AN EXTENSION LAMP IS PROVIDED IN THE CAB OR ON THE BRIDGE OF A CAB-OPERATED CRANE, IT SHALL BE A GROUNDED 3-PRONG TYPE PERMANENT RECEPTACLE AND SHALL NOT BE MORE THAN 300 VOLTS.

**R 408.11845 Warning devices.**

Rule 1845. (1) A crane, ~~except a pendant controlled crane where the operator and other employees in the area of the load can see all load movement,~~ shall be equipped with a warning device, such as a flashing light, HORN, bell, or siren. An operator shall use a warning device before starting and intermittently while traveling in an occupied area.

(2) A wind-indicating device shall be provided on an outdoor storage gantry type crane ~~which will~~ AND ON AN OUTDOOR OVERHEAD CRANE. THE DEVICE SHALL give a visual or audible alarm to the operator at a predetermined wind velocity TO BE DETERMINED BY THE EMPLOYER IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATION OR DESIGN.

**R 408.11847 Tool storage, HOUSEKEEPING, and fire extinguishers.**

Rule 1847. (1) Tools and other necessary articles shall be stored in a secured container and not allowed to be loose, in or about a crane.

(2) ~~On a cab-operated crane,~~ A class "C" or multipurpose fire extinguisher shall be provided and maintained accessible to the crane operator OF A CAB-OPERATED CRANE. A CARBON TETRACHLORIDE EXTINGUISHER SHALL NOT BE USED.

(3) ~~The~~ AN employer shall ensure that the crane operator is knowledgeable in the operation of the fire extinguishers.

(4) GOOD HOUSEKEEPING SHALL BE MAINTAINED AT ALL TIMES. THE CRANE OPERATOR SHALL KEEP THE ACCESS AREA AND THE CRANE CAB CLEAR OF ALL LOOSE OBJECTS SUCH AS TOOLS, BOLTS, BOARDS, RAGS, OR OTHER MATERIALS.

**OPERATORS AND OPERATIONS**

**R 408.11851 Qualification.**

Rule 1851. (1) An employee selected to operate a ~~cab or pulpit type~~ crane shall possess all of the following minimum qualifications and be examined for THE ~~such~~ qualifications at least once every 3 years:

- (a) Have corrected vision that meets the same requirements as vision for a valid Michigan driver's license. Possession of a Michigan driver's license or a doctor's certificate is evidence of meeting this requirement.
- (b) Have effective use of all 4 limbs.
- (c) Be of a height sufficient to operate the controls and to have an unobstructed view over the controls into the work area.
- (d) Have coordination between eyes, hands, and feet.
- (e) Be free of known convulsive disorders and episodes of unconsciousness.
- (2) An employee assigned to operate a crane shall have the ability to understand signs, labels, and instructions.
- (3) An employee who is operating a crane on the effective date of this part, and who does not meet the requirements of subrules (1)( a), (b), (c), and (d) and (2) of this rule may be continued as an operator if the handicap or disability does not prove detrimental to the task. (Note: The effective date OF THIS PART was July 25, 1973).
- ~~(4) An employer may apply this rule to an operator of a floor operated crane.~~

**R 408.11852 Training.**

Rule 1852. (1) An employer shall train a prospective operator before THE EMPLOYEE'S ~~their~~ assignment as an operator of a crane. AN EMPLOYER SHALL ENSURE THAT A DESIGNATED INDIVIDUAL AUTHORIZED BY THE EMPLOYER TO PERFORM THE TRAINING HAS THE KNOWLEDGE, TRAINING, AND EXPERIENCE TO TRAIN AND TO EVALUATE THE COMPETENCE OF THE PROSPECTIVE OPERATOR AND TO PROVIDE REFRESHER TRAINING TO AN OPERATOR WHEN IT IS REQUIRED. Training shall ~~be with respect to overhead and gantry cranes and shall~~ include ALL OF THE FOLLOWING:

- (a) Capacities of equipment and attachments.
- (b) Purpose, use, and limitation of controls.
- (c) How to make daily checks.
- (d) THE ENERGIZING SEQUENCES, INCLUDING PNEUMATIC, HYDRAULIC, AND ELECTRICAL SEQUENCES.
- (E) START-UP AND SHUTDOWN PROCEDURES.
- (F) EMERGENCY SHUTDOWN PROCEDURES.
- (G) GENERAL OPERATING PROCEDURES.
- (H) ALL BASIC SIGNALING PROCEDURES, INCLUDING HAND, RADIO, OR TELEPHONE SIGNALS, WHERE REQUIRED.
- (I) KNOWLEDGE OF GENERAL INDUSTRY SAFETY STANDARD PART 18. "OVERHEAD AND GANTRY CRANES," BEING R 408.11801 ET. SEQ., WHICH IS REFERENCED IN R 408.11807 AND OTHER APPLICABLE MIOSHA STANDARDS, AND COMPANY RULES AND REGULATIONS.
- (J) Practice in OPERATING THE ~~operation~~ assigned equipment through ~~its~~ THE MECHANICAL functions necessary to perform the required TASK. ~~job~~.
- (K) MAXIMUM RATED CAPACITY OF THE CRANE.
- ~~(e) A review of applicable state standards and company rules and regulations.~~

(2) TRAINING SHALL CONSIST OF A COMBINATION OF FORMAL INSTRUCTION, PRACTICAL TRAINING, AND TESTING OF THE OPERATOR'S PERFORMANCE, AS REQUIRED IN R 408.11853.

(3) REFRESHER TRAINING IN RELEVANT TOPICS SHALL BE PROVIDED TO AN OPERATOR UNDER ANY OF THE FOLLOWING CONDITIONS:

(A) AN OPERATOR HAS BEEN OBSERVED TO OPERATE THE CRANE IN A UNSAFE MANNER.

(B) AN OPERATOR HAS BEEN INVOLVED IN AN ACCIDENT OR A NEAR-MISS INCIDENT.

(C) AN OPERATOR HAS RECEIVED AN EVALUATION THAT REVEALS THAT THE OPERATOR IS NOT OPERATING THE CRANE SAFELY.

(D) AN OPERATOR IS ASSIGNED TO A DIFFERENT TYPE OF CRANE.

(E) A CONDITION IN THE WORKPLACE CHANGES THAT COULD AFFECT SAFE OPERATION OF THE CRANE.

(4) MAINTENANCE PERSONNEL, CRANE INSPECTORS, AND ALL OTHER USERS OF THE CRANE SHALL BE TRAINED AS REQUIRED IN SUBRULE (1) OF THIS RULE.

(5) A RIGGER SHALL BE TRAINED IN ALL OF THE FOLLOWING:

(A) THE REQUIREMENTS OF GENERAL INDUSTRY SAFETY STANDARD PART 18. "OVERHEAD AND GANTRY CRANES," BEING R 408.11801 ET SEQ., WHICH IS REFERENCED IN R 408.11807.

(B) KNOWLEDGE OF GENERAL INDUSTRY SAFETY STANDARD PART 49. "SLINGS," BEING R 408.14901 ET SEQ., WHICH REFERENCED IN R 408.11807.

(C) KNOWLEDGE OF GENERAL INDUSTRY SAFETY STANDARD PART 33. "PERSONAL PROTECTIVE EQUIPMENT," BEING R 408.13301 ET SEQ., WHICH IS REFERENCED IN R 408.11807.

(D) MAXIMUM CAPACITY OF THE CRANE.

(E) RIGGING PROCEDURES.

(F) COMPANY RULES AND REGULATIONS.

#### **R 408.11853 Testing.**

Rule 1853. (1) An employer shall test the knowledge and ability of an employee before authorizing him or her to operate a crane. The test shall determine all of the following with respect to the employee:

(a) ~~Operating ability.~~ ABILITY TO OPERATE THE EQUIPMENT THROUGH ITS FUNCTIONS NECESSARY TO PERFORM THE REQUIRED JOBS.

(b) Knowledge of equipment.

(c) Knowledge of daily checks AND INSPECTION REQUIREMENTS.

(d) Knowledge of applicable MIOSHA ~~state~~ standards and company rules and regulations.

(2) A PERFORMANCE TEST SHALL BE GIVEN TO DETERMINE THAT THE EMPLOYEE CAN OPERATE THE ASSIGNED CRANE OR CRANES THROUGH THE FUNCTIONS NECESSARY TO PERFORM THE REQUIRED TASK.

#### **R 408.11854 PERMITS.**

RULE 1854. (1) AN EMPLOYER SHALL PROVIDE AN EMPLOYEE WITH A PERMIT TO OPERATE A CRANE ONLY AFTER THE EMPLOYEE MEETS THE REQUIREMENTS PRESCRIBED IN R 408.11852, AND R 408.11853 ET SEQ.

(2) AN EMPLOYEE BEING TRAINED IS EXEMPT FROM THE PERMIT REQUIREMENT FOR A PERIOD OF NOT MORE THAN 30 CALENDAR DAYS IF THE EMPLOYEE IS UNDER THE SUPERVISION OF AN INDIVIDUAL WHO IS AUTHORIZED BY THE EMPLOYER AND WHO HAS THE KNOWLEDGE, TRAINING, AND EXPERIENCE TO TRAIN OPERATORS AND TO EVALUATE THEIR COMPETENCE, AND IF THE TRAINING PERIOD DOES NOT ENDANGER THE TRAINEE OR OTHER EMPLOYEES.

(3) A PERMIT SHALL BE CARRIED BY AN OPERATOR OR BE AVAILABLE UPON REQUEST OF A DEPARTMENT REPRESENTATIVE AT ALL TIMES DURING WORKING HOURS.

(4) A PERMIT SHALL INDICATE THE TYPE OF CRANE OR CRANES AN OPERATOR HAS BEEN TRAINED ON AND IS QUALIFIED TO OPERATE, AS REQUIRED IN R 408.11852 ET SEQ.

(5) A PERMIT TO OPERATE A CRANE IS VALID ONLY WITH THE EMPLOYER WHO ISSUED THE PERMIT, AND THE PERMIT SHALL BE ISSUED FOR A PERIOD OF NOT MORE THAN 3 YEARS.

(6) A PERMIT SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION (SEE SAMPLE PERMIT):

(A) FIRM NAME.

(B) OPERATOR'S NAME.

(C) OPERATOR I.D. NUMBER, IF ANY.

(D) NAME OF ISSUING AUTHORITY.

(E) TYPE OR TYPES OF CRANE AUTHORIZED TO OPERATE.

(F) OPERATOR RESTRICTIONS, IF ANY. THE PERMIT SHALL STATE THE NATURE OF THE RESTRICTION.

(G) DATE ISSUED.

(H) DATE EXPIRING.

(7) A SAMPLE PERMIT IS SET FORTH AS FOLLOWS:

#### SAMPLE PERMIT

##### **CRANE OPERATOR PERMIT**

**(FIRM NAME)**

**OPERATOR'S NAME**

**OPERATOR'S NUMBER**

**IS AUTHORIZED TO OPERATE: (INSERT TYPE OF CRANE(S) AUTHORIZED)**

**RESTRICTIONS: (EXPLANATION OF RESTRICTIONS)**

**DATE ISSUED: (MONTH - DAY- YEAR)**

**DATE EXPIRING: (MONTH - DAY- YEAR)**

BY ISSUING AUTHORITY: \_\_\_\_\_

TITLE

**R 408.11855 Limitations on use of cranes.**

Rule 1855. (1) An employer shall limit the use of a crane to THE FOLLOWING PERSONS:

- (a) An employee who IS ~~has been~~ trained and IS qualified to operate the type of crane to which HE OR SHE IS ~~they are~~ assigned.
- (b) A learner under the direct supervision of a designated operator.
- (c) DESIGNATED maintenance personnel WHILE PERFORMING ~~during performance of~~ their duties.

~~(d) Its maximum rated capacity.~~

(2) An employer shall establish and enforce a safe procedure, applicable to authorized employees, for boarding and leaving an overhead CAB-OPERATED crane.

(3) AN EMPLOYER SHALL ASSURE THAT AN UNAUTHORIZED EMPLOYEE DOES NOT ENTER A CRANE CAB OR PULPIT.

**R 408.11857 Reporting defects.**

Rule 1857. ~~(1)~~ An operator shall report any defects in a crane to the supervisor.

~~(2) An unauthorized employee shall not enter a crane cab or pulpit.~~

**R 408.11859 Personal protective equipment.**

Rule 1859. (1) An operator and an employee directing a lift shall use the personal protective devices required in the area.

(2) IF ~~Where~~ the top of the load is not lifted to a height OR MORE ~~greater~~ than 5 feet, THEN the load IS ~~shall not be~~ considered an overhead hazard.

(3) An employee performing maintenance on an overhead or gantry crane, where a standard barrier, as prescribed in R 408.11835, or platform is not provided, shall wear an approved safety HARNESS ~~belt~~ and lanyard, OR A FALL ARREST DEVICE AS PRESCRIBED IN CONSTRUCTION SAFETY STANDARD, PART 45. "FALL PROTECTION," BEING R 408.44501, ET SEQ., WHICH IS REFERENCED IN R 408.11807.

**R 408.11861 General conduct of operators.**

Rule 1861. (1) An operator, when starting on duty SHALL COMPLY WITH BOTH OF THE FOLLOWING PROVISIONS:

(a) Shall not close the main switch or emergency contactor until checking to see if anyone is on the crane and if a warning sign is on the crane, hook, or main switch.

(b) Shall test all controls, limit switches, and brakes. When a load approaches the rated load, the operator shall test the hoisting brakes by raising the load a few inches and applying the brakes.

(2) A hoisting limit switch on a crane or hoisting means shall not be used as an operating control unless the crane is also equipped with a backup limit switch.

(3) A load shall not be lowered below a point where less than 2 full wraps of wire rope remain on the hoisting drum.

(4) IF ~~When~~ there is doubt concerning the safety of a crane or hoisting means, THEN an operator shall stop the crane and report the condition creating THE ~~this~~ doubt to the supervisor.



- (5) In case of power failure, an operator shall place all controllers in the “off” position.
- (6) An operator leaving a crane unattended shall land any attached load, place the controllers in the “off” position, and open the main switch. Before closing a main switch, an operator shall make sure all controllers are in the “off” position. ~~On pendant-controlled cranes,~~ The main switch need not be opened ON A PENDANT-CONTROLLED CRANE if the crane is left unattended for short periods.
- ~~(7) An operator leaving an outdoor crane shall secure it as prescribed in rule 1841(3).~~

2001 MR 20

ITEM			ITEM		
BRIDGE STRUCTURAL			TROLLEY STRUCTURAL		
GUARDS & COVERS	F	P	STEEL FRAME		P
BUMPERS	F	P	CONNECTION HARDWARE		P
RAIL SWEEPS	F	P	LOAD BEAM		P
CATWALK & RAILINGS		P	MAINTENANCE PLATFORM		P
GENERAL STRUCTURE & WELDS		P	HANDRAILS		P
CAPACITY SIGNS	F	P	RAIL SWEEPS	F	P
HAND RAILS		P	BUMPERS	F	P
TROLLEY RAIL & STOPS	F	P	GUARDS & COVERS	F	P
BRIDGE MECHANICAL			ALIGNMENT & TRACKING		P
MOTOR	F	P	TROLLEY MECHANICAL		
BRAKE & HYDRAULICS	F	P	MOTOR	F	P
GEAR CASE	F	P	BRAKE	F	P
COUPLINGS	F	P	GEAR CASE		P
LINE SHAFT BEARINGS	F	P	COUPLINGS	F	P
WHEELS	F	P	WHEELS	F	P
WHEEL GEARINGS	F	P	TROLLEY ELECTRICAL		
WHEEL BEARINGS	F	P	GENERAL WIRING & CONDUITS	F	P
BRIDGE ELECTRICAL			MOTOR	F	P
LIGHTS	F	P	CONTROL PANELS	F	P
ELECTRIC CONTROL BRAKE	F	P	CONTROL OPERATIONS	F	P
MASTER SWITCHES	F	P	MOTOR RESISTORS	F	P
RUNWAY COLLECTORS	F	P	SOFT START OR INVERTER	F	P
TROLLEY CONDUCTORS	F	P	HOIST/TROLLEY CONDUCTORS	F	P
RESISTORS	F	P	LIMIT SWITCH(S)	F	P
SOFT START OR INVERTER	F	P	ELECTRIC CONTROL BRAKE(S)	F	P

2001 MR 20

ITEM			ITEM		
HOIST STRUCTURAL			BRAKE COIL	F	P
STEEL FRAME CONDITION		P	POWER LIMIT SWITCH	F	P
CAPACITY MARKINGS	F	P	CABLE REELS	F	P
GUARDS & COVERS	F	P	CONTROL CABLES	F	P
CONNECTION TO TROLLEY	F	P	MISCELLANEOUS		
HOIST MECHANICAL			WARNING TAG	F	P
MOTOR	F	P	CAPACITY MARKINGS	F	P
BRAKE DRUM	F	P	WIND INDICATORS	F	P
HOLDING BRAKE	F	P	RAIL CLAMPS	F	P
MECHANICAL LOAD BRAKE	F	P	HOURLY METER READINGS		P
GEAR CASE	F	P	OPERATOR INSTRUCTION MANUAL		P
COUPLING(S)	F	P	MAINTENANCE MANUAL		P
UPPER SHEAVE(S)	F	P	RUNWAY, RAILS, CLIPS, BARS	F	P
ROPE DRUM		P	PROPER LICENSE		P
WIRE ROPE	F	P	WARNING DEVICES	F	P
BOTTOM BLOCK ASSEMBLY	F	P	SPARE BATTERIES	F	P
HOOK & LATCH	F	P	RECHARGING UNIT	F	P
EQUALIZER SHEAVE	F	P	TRANSMITTER STORAGE LOCATION	F	P
HOIST ELECTRICAL (MAIN)			TEST RUN		
GENERAL WIRING & CONDUITS	F	P	BRIDGE	F	P
MOTOR(S)	F	P	TROLLEY	F	P
CONTROL PANEL	F	P	MAIN HOIST	F	P
MOTOR RESISTORS	F	P	AUXILIARY HOIST	F	P
LIMIT SWITCH(S)	F	P	VERIFICATION		
SOFT START OR INVERTER	F	P	INSPECTION ACCEPTED/DATE	F	P
ELECTRIC CONTROL BRAKE(S)	F	P	CUSTOMER SIGNATURE	F	P
OVERLOAD GUARD		P			

2001 MR 20

ITEM			ITEM		
HOIST STRUCTURAL			SOFT START OR INVERTER	F	P
(AUXILIARY)			ELECTRIC CONTROL BRAKE(S)	F	P
STEEL FRAME CONDITION		P	OVERLOAD GUARD		P
CAPACITY MARKINGS	F	P	BRAKE COIL	F	P
GUARDS & COVERS	F	P	POWER LIMIT SWITCH	F	P
CONNECTION TO TROLLEY	F	P	CABLE REELS	F	P
HOIST MECHANICAL			CONTROL CABLES	F	P
(AUXILIARY)					
MOTOR	F	P	PENDANT CONTROL		
BRAKE DRUM	F	P	PUSH BUTTON FESTOON CONDITION	F	P
HOLDING BRAKE	F	P	PUSH BUTTON PENDANT	F	P
			CONDITION		
MECHANICAL LOAD BRAKE	F	P	PUSH BUTTON LEGEND MARKINGS	F	P
GEAR CASE	F	P	PUSH BUTTON STRAIN RELIEF	F	P
COUPLING(S)	F	P	CABLE REEL(S)	F	P
UPPER SHEAVE(S)	F	P	PENDANT BALANCER	F	P
ROPE DRUM		P	OPERATION OF E-STOP	F	P
WIRE ROPE	F	P	WARNING TAG ON PUSH BUTTON	F	P
BOTTOM BLOCK ASSEMBLY	F	P	RADIO CONTROL ELECTRICAL		
HOOK & LATCH	F	P	CONDUITS & FITTINGS	F	P
EQUALIZER SHEAVE	F	P	WIRING & CONNECTIONS	F	P
HOIST ELECTRICAL (AUXILIARY)			CONTROL PANELS	F	P
GENERAL WIRING & CONDUITS	F	P	RADIO/MANUAL SWITCH	F	P
MOTOR(S)	F	P	RECEIVER ANTENNA	F	P
CONTROL PANEL	F	P	TRANSMITTER FUNCTIONS	F	P
MOTOR RESISTORS	F	P	TRANSMITTER EMERGENCY STOP	F	P
LIMIT SWITCH(S)	F	P			

2001 MR 20

ITEM			ITEM		
BRIDGE CONTROL PANELS			AUXILIARY HOIST CONTROL PANELS		
LINE CONTACTOR & KNIFE SWITCH	F	P	CONTACTORS	F	P
BRIDGE CONTACTORS	F	P	ARCH SHIELDS	F	P
ARCH SHIELDS	F	P	WIRING	F	P
WIRING	F	P	GROUND	F	P
GROUND	F	P	RESISTORS	F	P
RESISTORS	F	P	DOORS CLOSED	F	P
DOORS CLOSED	F	P	OVERLOAD RELAYS		P
TROLLEY CONTROL PANELS			MAIN POWER SUPPLY		
CONTACTORS	F	P	MAIN LINE CONDUCTORS	F	P
ARCH SHIELDS	F	P	MAIN LINE COLLECTORS	F	P
WIRING	F	P	TROLLEY POWER SUPPLY		
GROUND	F	P	TROLLEY CONDUCTORS	F	P
RESISTORS	F	P	TROLLEY LINE COLLECTORS	F	P
DOORS CLOSED	F	P	FESTOON SYSTEM POWER SUPPLY		
MAIN HOIST CONTROL PANELS			TROLLEY PUSHER ARM	F	P
CONTACTORS	F	P	FESTOON SPAN CONDUCTORS	F	P
ARCH SHIELDS	F	P	FESTOON TROLLEYS	F	P
WIRING	F	P	SAFETY		
GROUND	F	P	FIRE EXTINGUISHER	F	P
RESISTORS	F	P	CLEARANCE		
DOORS CLOSED	F	P	CRANE/OBSTRUCTION		P
OVERLOAD RELAYS	F	P	GENERAL CONDITION & HOUSEKEEPING	F	P

**TABLE 2**  
**MINIMUM INSPECTION SCHEDULE**

<b>ITEM</b>	<b>DAILY</b>	<b>MONTHLY TO QUARTERLY</b>	<b>YEARLY OR MORE OFTEN</b>
<b>Operating Mechanisms</b>	<b>visual for function</b>	<b>check for wear, distortion and fractures</b>	
<b>Limit Switches</b>	<b>visual &amp; operational for function</b>	<b>check for adjustment and wear</b>	
<b>Air Systems</b>	<b>visual for leaks</b>	<b>visual for leaks</b>	
<b>Hydraulic Systems</b>	<b>visual for leaks</b>	<b>visual for leaks and abrasions</b>	
<b>Hooks*</b>	<b>visual for deformation and cracks</b>		
<b>Chains</b>	<b>visual for wear, elongation and twist</b>	<b>measure for wear and elongation</b>	
<b>Wire Rope**</b>	<b>visual for wear, broken wire, kinks</b>	<b>measure for wear</b>	
<b>Slings</b>	<b>visual for wear, broken wire, kinks</b>	<b>measure for wear</b>	
<b>Rope Reeving</b>	<b>visual for proper seating in drum and sheave grooves</b>	<b>visual for proper seating in drum and sheave grooves</b>	
<b>Chain Drive Sprockets</b>			<b>check for wear</b>
<b>Drive Chain</b>		<b>check for stretch</b>	
<b>Brake System</b>		<b>check for adjustment and wear</b>	
<b>Sheaves</b>			<b>check for wear and cracks</b>
<b>Drums</b>			<b>check for wear and cracks</b>
<b>Fasteners</b>		<b>check for tightness</b>	
<b>Electrical Apparatus</b>		<b>check electrical components for function, loose connections and deterioration</b>	
<b>Lock and Clamp Mooring Devices</b>		<b>visual for function and wear</b>	<b>Check for wear, distortion and fractures</b>

<b>Cab</b>		<del>check hangers and fasteners</del>	
<del>Load, Wind and Other Indicators</del>		<del>Accuracy</del>	
<del>Power Plants</del>		<del>performance and safety requirements</del>	
<del>* See Rule 1825</del>	<del>** See Rule 1824</del>		

**R 408.11873 OPERATIONAL TESTS.**

RULE 1873. (1) BEFORE A NEW OR MODIFIED CRANE IS PUT INTO OPERATION OR IF A CRANE HAS NOT BEEN USED IN THE PAST 12 MONTHS, THE EQUIPMENT SHALL BE TESTED BY A DESIGNATED PERSON TO ENSURE COMPLIANCE WITH THIS PART, INCLUDING ALL OF THE FOLLOWING FUNCTIONS:

- (A) HOISTING AND LOWERING.
- (B) TROLLEY TRAVEL.
- (C) BRIDGE TRAVEL.
- (D) TRAVEL LIMITING DEVICES.

(2) THE TRIP SETTING OF A HOIST LIMIT SWITCH SHALL BE DETERMINED WITH AN EMPTY HOOK TRAVELING IN INCREASING SPEEDS UP TO THE MAXIMUM SPEED. THE ACTUATING MECHANISM OF THE LIMIT SWITCH SHALL BE LOCATED SO THAT IT WILL TRIP THE SWITCH, UNDER ALL CONDITIONS, IN TIME TO PREVENT CONTACT OF THE HOOK OR HOOK BLOCK WITH ANY PART OF THE TROLLEY.

(3) LOCKING, LIMITING, AND INDICATING DEVICES, IF PROVIDED.

(4) WHEN A CRANE IS GIVEN A LOAD TEST, THE TEST LOAD SHALL BE NOT MORE THAN 125% OF THE RATED LOAD. THE TEST REPORTS SHALL BE MAINTAINED ON A FILE WITHIN THE PREMISES WHERE THE CRANE IS LOCATED.

**R 408.11874 RATED LOAD TEST.**

RULE 1874. BEFORE INITIAL USE, ALL NEW, EXTENSIVELY REPAIRED, AND ALTERED CRANES SHALL BE TESTED AND INSPECTED BY OR UNDER THE DIRECTION OF A DESIGNATED OR AUTHORIZED PERSON AND A WRITTEN REPORT WHICH CONFIRMS THE LOAD RATING OF THE CRANE SHALL BE FURNISHED BY THE PERSON. THE LOAD RATING SHALL NOT BE MORE THEN 80% OF THE MAXIMUM LOAD SUSTAINED DURING THE TEST. TEST LOADS SHALL NOT BE MORE THAN 125% OF THE RATED LOAD, UNLESS OTHERWISE RECOMMENDED BY THE MANUFACTURER. THE TEST REPORTS SHALL BE PLACED ON FILE WHERE READILY AVAILABLE TO APPOINTED PERSONNEL.

**R 408.11875 Maintenance.**

Rule 1875. (1) An employer shall maintain a crane and its accessories in a condition that will not endanger an operator or other employee. A PREVENTATIVE MAINTENANCE PROGRAM SHALL BE ESTABLISHED AND THE PROGRAM SHALL BE BASED ON

THE MANUFACTURER'S RECOMMENDATIONS AND FOR THE APPLICATION AS REVIEWED BY A QUALIFIED PERSON.

(2) An unsafe condition on a crane determined by an inspection shall be corrected by a designated trained employee or A QUALIFIED ~~an outside~~ crane service company before the crane is put into operation. DESIGNATED REPAIR PERSONNEL SHALL HAVE A THOROUGH BACKGROUND IN EITHER MECHANICAL OR ELECTRICAL OPERATING SYSTEMS, OR BOTH, AND SHALL ALSO HAVE A PERMIT TO OPERATE THE TYPE OF CRANE THAT IS BEING SERVICED.

(3) Before adjustments or repairs are commenced on a crane, ALL OF the following precautions shall be taken:

(a) A crane to be repaired shall be moved to a location where it will cause the least interference with other moving equipment on the track or rails and operations in the area.

(b) Controllers shall be placed in the "off" position.

(c) The main switch shall be placed in the "off" or "open" position and locked OUT, except where power is necessary to adjust or service the crane.

(d) A warning SIGN or "out of order" sign shall be placed at the operator control station.

(e) Illumination of not less than 15 footcandles intensity shall be provided while maintenance is performed on a crane.

(4) IF ~~Where~~ any other crane uses the same runway, THEN a protective device shall be used to prevent interference with the idle crane undergoing repairs. IF ~~Where~~ the protective device is impracticable, THEN a signal PERSON ~~man~~ shall be placed at a visual vantage point to warn the operator of the active crane when it reaches the limit of safe distance from the idle crane.

(5) A crane that has been adjusted or repaired shall not be returned to normal operation until all guards have been replaced, locks removed by those who installed them, or their supervisor, safety devices reactivated, and the maintenance equipment removed.

(6) Manual lubrication on a crane shall comply with subrule (3)(c) OF THIS RULE.

(7) An accumulation of dirt on a crane that would create a hazardous condition shall be removed.



---

**NOTICE OF PUBLIC HEARING**

---

**PUBLIC NOTICE**

The Director of the Department of Consumer and Industry Services, along with the General Industry Safety Standards Commission, announce the Notice of Public Hearing on Part 18. Overhead and Gantry Cranes Standard.

**STATE OF MICHIGAN  
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES  
MIOsha STANDARDS DIVISION  
ORR #2001-061**

To Whom It May Concern:

Please take notice that pursuant to the provisions of the Administrative Procedures Act of 1969 (Act No. 306 of the Public Acts of 1969, as amended) and MIOsha (Act No. 154 of the Public Acts of 1974, as amended), the Michigan Department of Consumer and Industry Services will conduct a PUBLIC HEARING.

This PUBLIC HEARING will be held to receive comment for a proposed amendment for the General Industry Safety Standards Commission on the following date and location:

December 5, 2001  
Michigan Department of Consumer and Industry Services  
General Office Building, Conference Room B  
7150 Harris Drive  
Lansing, Michigan 48909  
10 a.m. to 11:30 a.m.

The purpose of a PUBLIC HEARING is to allow all persons an opportunity to present data, views, and arguments relative to proposed amendments as promulgated by the General Industry Safety Standards Commission.

Oral and/or written testimony will be accepted for the following proposed amendment: R 408.11801, R 408.11803, R 408.11804, R 408.11805, R 408.11806, R 408.11821, R 408.11822, R 408.11824, R 408.11825, R 408.11835, R 408.11841, R 408.11843, R 408.11845, R 408.11847, R 408.11851, R 408.11852, R 408.11853, R 408.11855, R 408.11857, R 408.11859, R 408.11861, R 408.11865, R 408.11871, R 408.11872, and R 408.11875 as amended; R 408.11826 and R 408.11837 as rescinded; and R 408.11807, R 408.11808, R 408.11827, R 408.11833, R 408.11844, R 408.11854, R 408.11873, and R 408.11874 as added.

Persons attending the hearings are urged to submit a written summary of remarks as part of their presentation. Written comments pertaining to each set of proposed rules must be submitted as separate documents. The submission of a written statement will in no way prohibit or limit the right of oral expression by any persons at the hearings.

Persons unable to attend the public hearings may submit separate written data, views, and arguments relative to each set of proposed rules to: Connie Munschy, MIOSHA Standards Division, MI Department of Consumer & Industry Services, 7150 Harris Drive, P.O. Box 30643, Lansing, MI 48909.

Your written input must be received no later than 5 p.m. on December 19, 2001. Copies of the amendments may be obtained from the address listed above. A copy of the rule also appears in the Office of Regulatory Reform website at: [www.state.mi.us/orr/](http://www.state.mi.us/orr/). Access the website then use the search capability to find: 2001-061.

Kathleen M. Wilbur, Director  
Michigan Department of Consumer & Industry Services

Michael D. Koehs, Chairperson  
General Industry Safety Standards Commission

*The public hearings will be conducted in compliance with the 1990 Americans with Disabilities Act, in an accessible building with handicapper parking available. Should a sign language interpreter or assisted listening devices be required, please call 517/373-0378 TDD or 1-800-SAY-ABLE T/V. Requests for materials in alternative formats can be made by calling 517/322-1845.*

---

PROPOSED ADMINISTRATIVE RULES

---

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**DIRECTOR'S OFFICE**

**OCCUPATIONAL HEALTH STANDARDS-BENZENE**

Filed with the Secretary of State on

This rule takes effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by section 24 of 1974 PA 154, MCL 408.1024, and Executive Reorganization Orders Nos. 1996-1 and 1996-2, MCL 330.3101 and 445.2001)

R 325.77101 of the Michigan Administrative Code is amended as follows:

**R 325.77101 Scope.**

Rule 1. (1) These rules apply to all occupational exposures to benzene, chemical abstracts service registry no. 71-43-2, except as provided in subrules (2) and (3) of this rule.

(2) These rules do not apply to any of the following:

(a) The storage, transportation, distribution, dispensing, sale, or use of gasoline, motor fuels, or other fuels that contain benzene after its final discharge from bulk wholesale storage facilities, except that operations which dispense gasoline or motor fuels for more than 4 hours per day in an indoor location are covered by these rules.

(b) Loading and unloading operations at bulk wholesale storage facilities which use vapor control systems for all loading and unloading operations. However, such operations are subject to the provisions of R 325.77107 and ~~R 325.77109(10)~~ R 325.77109(9) and the hazard communication provisions of sections 14a to 14m of 1974 PA 154, MCL Act No. 154 of the Public Acts of 1974, as amended, being §§ 408.1014a to 408.1014m of the Michigan Compiled Laws.

(c) The storage, transportation, distribution, or sale of benzene or liquid mixtures that contain more than 0.1% benzene in intact containers or in transportation pipelines while sealed in a manner to contain benzene vapors or liquid. However, such storage, transportation, distribution, or sale is subject to the provisions of R 325.77107 and ~~R 325.77109(10)~~ R 325.77109(9) and the hazard communication provisions of sections 14a to 14m 1974 PA 154, MCL of Act No. 154 of the Public Acts of 1974, as amended, being §§ 408.1014a to 408.1014m of the Michigan Compiled Laws.

(d) Containers and pipelines that carry mixtures which are less than 0.1% benzene.

(e) Natural gas-processing plants that process gas which contains less than 0.1% percent benzene.

(f) Work operations where the only exposure to benzene is from liquid mixtures that contain 0.5% or less of benzene, by volume, or the vapors released from THE ~~such~~ liquids until September 12, 1988; work operations where the only exposure to benzene is from liquid mixtures that contain 0.3% or less of benzene, by volume, or the vapors released from THE ~~such~~ liquids from September 12, 1988, to September 12, 1989; and work operations where the only exposure to benzene is from liquid mixtures that contain 0.1% or less of benzene, by volume, or the vapors released from THE ~~such~~ liquids after September 12, 1989; except that tire-building machine operators who use solvents which contain more than 0.1% benzene are subject to the provisions of R 325.77109.

(g) Oil and gas drilling, production, and servicing operations.

(h) Coke oven batteries.

(3) Cleaning and repair operations of barges and tankers THAT ~~which~~ have contained benzene are excluded from the provisions of R 325.77106, R 325.77105(1) to (4), and R 325.77105(6). Engineering and work practice controls shall be used to keep exposures below 10 ppm, unless it is proven to be not feasible.

(4) These rules replace those portions of O.H. rules 2101(5), 2101(8), and 2103 that pertain to benzene for those industries covered by subrule (1) of this rule.

---

**PROPOSED ADMINISTRATIVE RULES**

---

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**BUREAU OF COMMERCIAL SERVICES**

**RESIDENTIAL BUILDERS AND MAINTENANCE AND ALTERATION  
CONTRACTORS**

**GENERAL RULES**

Filed with the Secretary of State on  
This rule takes effect 7 days after filing with the Secretary of State

(By authority conferred on the director of the department of consumer and industry services by 1980 PA 299, and Executive Reorganization Order No. 1996-2, MCL 339.308 and 445.2001)

The General Rules of the Department of Consumer and Industry Services entitled "Residential Builders and Maintenance and Alteration Contractors," being R 338.1511 to R 338.1554, are amended by adding R 338.1555 as follows:

**PART 5. COMPLAINTS AND HEARINGS**

**R 338.1555 PRESERVATION OF CONTRACT RIGHTS.**

RULE 55. THE AFFIRMATIVE DEFENSE FOR FAILURE TO UTILIZE A CONTRACTUALLY PROVIDED ALTERNATIVE DISPUTE RESOLUTION PROCEDURE AUTHORIZED IN 2001 PA 113, MCL 339.2412(2) SHALL ONLY BE AVAILABLE IN ACTIONS BROUGHT UNDER A CONTRACT ENTERED INTO AND EXECUTED AFTER JULY 31, 2001.

---

NOTICE OF PUBLIC HEARING

---

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES**

**PUBLIC HEARING NOTICE**

**ORR #2001-079**

The Director of the Department of Consumer and Industry Services and the Bureau of Commercial Services announce the notice of public hearing on:

Residential Builders and Maintenance and Alteration Contractors - General Rules  
"Part 5. Complaints and Hearings"

To Whom It May Concern:

Please take notice that pursuant to the provisions of the Administrative Procedures Act of 1969 (Act No. 306 of the Public Acts of 1969, as amended), the Michigan Department of Consumer and Industry Services will conduct a public hearing. This public hearing will be held to receive comment for a proposed addition to the Residential Builders and Maintenance and Alteration Contractors General Rules. The public hearing will be held:

Thursday, November 29, 2001  
G. Mennen Williams Law Building  
First Floor Auditorium  
525 W. Ottawa Street  
Lansing, Michigan 48909  
9:00 a.m. until 11:00 a.m.

The purpose of a public hearing is to allow all persons an opportunity to present data, views, and arguments relative to rule proposed by the department. Oral and/or written testimony will be accepted for the proposed rule until 5:00 p.m. on Friday, December 7, 2001. Persons attending the hearing are urged to submit a written summary of remarks as part of their presentation. The submission of a written statement will in no way prohibit or limit the right of oral expression by any persons at the hearing.

Persons unable to attend the public hearing may submit separate written data, views, and arguments relative to the proposed rule to: Norene Lind, Administrative Rules Specialist; Office of Policy and Legislative Affairs; Department of Consumer & Industry Services, P.O. Box 30004, Lansing, MI 48909.

Copies of the proposed rule may be obtained from the address listed above. A copy of the rule also appears in the Office of Regulatory Reform website at: [www.state.mi.us/orr/](http://www.state.mi.us/orr/). Access the website then use the search capability to find: 2001-079.

*The public hearings will be conducted in compliance with the 1990 Americans with Disabilities Act, in an accessible building with handicapper parking available. Should a sign language interpreter or assisted listening devices be required, please call 517/373-0378 TDD or 1-800-SAY-ABLE T/V. Requests for materials in alternative formats can be made by calling 517/322-1845.*

---

**OPINIONS OF THE  
ATTORNEY GENERAL**

---

*MCL 14.32 states in part:*

*“It shall be the duty of the attorney general, when required, to give his opinion upon all questions of law submitted to him by the legislature, or by either branch thereof, or by the governor, auditor general, treasurer or any other state officer”*

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

(j) Attorney general opinions. ”



---

OPINIONS OF THE ATTORNEY GENERAL

---

**OPINIONS OF THE ATTORNEY GENERAL**

COURTS, DISTRICT: Eligibility of sitting district court  
judge to run for different district court  
judgeship

ELECTIONS:

JUDGES: Necessity of filing nominating  
petitions to register candidacy for  
district court judgeship

A sitting district court judge is eligible to run for a district court judgeship in a different division of the same court provided that he or she satisfies the residency and other requirements for election to that office.

A sitting district court judge, in order to become a candidate for a judgeship in another division of the same district court, must file the appropriate nominating petitions under section 467b of the Michigan Election Law.

Opinion No. 7091

October 16, 2001

Honorable Bill Bullard, Jr.  
State Senator  
The Capitol  
Lansing, MI

You have asked two questions concerning the eligibility of a district court judge to run for another district judgeship seat and the filing requirements that would govern such a candidacy.

Your first question asks whether a sitting district court judge, before the expiration of the judge's term and while maintaining office, may run for a district judgeship in a different division of the same court.

Information supplied by your office indicates that a sitting judge in the 52 District Court, Division 1, who is a resident of White Lake Township in Oakland County, wishes to run in the November 2002 election for a district judgeship on the 52 District Court, Division 2. Because the judge was elected in November 1998 for a

six-year term that commenced on January 1, 1999, his current term does not expire until noon on January 1, 2005. The term of office for the open seat on the 52 District Court, Division 2, to be elected in November 2002, will be from January 1, 2003, until January 1, 2009. See MCL 168.467i.

Public Acts 447-449 of 2000 reorganized the 52 District Court. Effective January 1, 2003, White Lake Township will be transferred from the first election division of the 52 District Court to the second election division. 2000 PA 448, section 8123(10), MCL 600.8123(10). As part of the court reorganization, Act 448 authorizes the Oakland County Board of Commissioners to approve an additional judgeship for the first election division. Section 8123(10)(a). Following such an approval by the Oakland County Board of Commissioners, the Legislature has provided that a judgeship from the first election division be transferred to the second election division of the 52 District Court, effective January 1, 2003. The judgeship to be transferred is that "filled by the district judge of the first division whose term expires January 1, 2005." *Id.* Thus, assuming such a transfer occurs, the judicial seat in the first election division with a term expiring on January 1, 2005, will be transferred to the second election division of the 52 District Court.

Public elections are governed by the Michigan Election Law, 1954 PA 116, MCL 168.1 *et seq.* Section 467 sets forth the eligibility requirements for district court judges, and provides in pertinent part: "[a] person shall not be eligible for the office of judge of the district court unless the person is a registered and qualified elector of the judicial district and election division in which election is sought by the filing deadline or the date the person files the affidavit of candidacy, is licensed to practice law in this state, and, at the time of election or appointment, is less than 70 years of age." Thus, the Election Law imposes a residency requirement, a licensing requirement, and an age requirement. Your first question asks whether a district court judge sitting on the 52 District Court, Division 1, who is a resident of White Lake Township, is eligible to run for a seat on the 52 District Court, Division 2, in November 2002.

Concerning the residency requirement set forth in section 467 of the Election Law, 2000 PA 448 provides the answer. Subsection 10(b) of that act states that, beginning January 1, 2003, White Lake Township will be a part of the 52 District, Division 2. Section 1 of Act 448 further clarifies that “[t]he changes in the composition of first and second election divisions of the fifty-second district court as provided in this amendatory act shall be effective *for election purposes on March 2, 2002*, and for judicial purposes on January 1, 2003.” (Emphasis added.) Additionally, Act 448 states that in 2002 White Lake Township electors will no longer be eligible to vote, be candidates, or sign nominating petitions for the 52 District Court, Division 1, judicial elections. The Legislature has clearly stated that the effective date for election purposes for the reorganization of the 52 District Court is March 2, 2002. Thus, if the sitting 52-1 District Court Judge is still a resident of White Lake Township on March 2, 2002, he will then be a resident of the 52-2 Judicial District. If he maintains his residency, the judge would meet the residency requirements to run for a seat on the 52 District Court, Division 2, in the November 2002 election.

The second eligibility requirement for a district court judgeship, as set forth in section 467 of the Election Law, is the licensing requirement. For purposes of your question, it is assumed that the sitting judge will continue to possess a license to practice law in Michigan and, therefore, satisfy this licensing requirement.

The third eligibility requirement for a district court judgeship, as set forth in section 467 of the Election Law, is the requirement that the candidate be less than 70 years of age at the time of election or appointment to the district court. This statutory requirement parallels the constitutional requirement regarding the age of judicial officers, which states in pertinent part, “[n]o person shall be elected or appointed to judicial office after reaching the age of 70 years.” Const 1963, art 6, § 19. While your letter states that the sitting judge would be barred by his age from seeking reelection at the end of his current term on the 52 District Court, Division 1, you have not indicated how old he will be on election day in November 2002. If the judge is then less than 70 years of age, he will satisfy the statutory and constitutional age provisions governing judicial officers.

Finally, implicit in your first inquiry is the question whether a sitting judge must vacate a current judicial office in order to run for another judicial seat. Your office has advised that if the sitting judge decides to run for the open seat on the 52 District Court, Division 2, it is his intention to retain his current judgeship while seeking election to the 52-2 District Court.

Const 1963, art 6, § 21, provides that “[a]ny justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.” The purpose of this provision is to “divorc[e] the judiciary from the political arena.” Convention Comment, Const 1963, art 6, § 21. But by its express terms, this provision does not prohibit a judge from running for or being elected to another *judicial* office during his or her existing term. Similarly, Code of Judicial Conduct, Canon 7, specifically requires a judge to “resign the judicial office before becoming a candidate either in a party primary or in a general election for *non-judicial* office.” Canon 7(A)(3). (Emphasis added.) Here again, there is no requirement imposed on a judge to resign a current judgeship while running for another judicial office. There are no statutory or constitutional provisions that would require a sitting judge to vacate a currently held judgeship in order to run for another judicial seat or that would otherwise prohibit such a candidacy.

It is my opinion, therefore, in answer to your first question, that a sitting district court judge is eligible to run for a district court judgeship in a different division of the same court provided that he or she satisfies the residency and other requirements for election to that office.

Your second question asks whether the sitting judge, in order to become a candidate for a judgeship in another division of the same district court, must file nominating petitions for that seat.

The Election Law provides that in order to become a candidate for district court judge, a person must file nominating petitions containing, *inter alia*, a minimum number of signatures of qualified and registered electors residing in the judicial district or election division of the office sought. Section 467b(1). This section

also provides, however, that an elected "incumbent district court judge may also become a candidate by the filing of an affidavit in lieu of petitions according to section 467c." *Id.* In relevant part, section 467c states:

(1) An incumbent district court judge may become a candidate in the primary election for *the office of which he or she is an incumbent* by filing with the secretary of state an affidavit of candidacy in lieu of nominating petitions not less than 134 days prior to the date of the primary election. . . . The affidavit of candidacy shall contain statements that the affiant is an *incumbent district court judge for the district or election division in which election is sought*, that he or she is domiciled within the district or election division, and that he or she will not attain the age of 70 by the date of election, and a declaration that the affiant is a candidate for election to the office of district court judge. [MCL 168.467c(1); emphasis added.]

In order to file as an incumbent and, thus, avoid the requirement for filing nominating petitions, a judicial candidate must meet the requirements set forth in section 467c. Under section 467c, in order to file as an *incumbent* candidate, the judge must be an incumbent of the specific judicial office to which he or she seeks election. By its inclusion of "election division" in its declaration requirement, section 467c makes clear that it is not just the judicial district that controls the question whether a judge is an incumbent of the judicial office sought. Rather, when a district is subdivided into election divisions, the language of section 467c referencing "election divisions" indicates that it is the particular election *division* that designates a judicial office and grants incumbency status to the holder of that office.

The 52 District Court is divided into two election divisions: Division 1 and Division 2. Therefore, the judicial offices on the 52 District Court, Division 1, and 52 District Court, Division 2, are not the same. Because the subject of your inquiry is a sitting judge of the 52 District Court, Division 1, he is unable to declare by affidavit, as required by section 467c of the Election Law, that he is an incumbent district court judge of the 52 District Court, Division 2.

The above will remain true even if the Oakland County Board of Commissioners creates an additional judgeship on 52 District Court, Division 1, thereby causing the transfer of the judgeship expiring on January 1, 2005, to the 52 District Court, Division 2 (i.e., the judgeship held by the judge on whose behalf this inquiry was

made). Section 8123(10)(a). In that event, this statute makes clear that the transfer of the judgeship would be effective January 1, 2003. *Id.* Thus, at the time he files for the open seat on the 52 District Court, Division 2, in 2002, the judge in question would not have held, or be an incumbent of, that judicial seat.

Under the Election Law, each seat held by an individual judge is a separate and distinct judicial office. Section 467b(2), which governs the filing of nominating petitions for district court judges, requires that candidates designate the office for which they seek election, and provides:

(2) Nominating petitions filed under this section are valid only if they clearly indicate for which of the following offices the candidate is filing . . . :

- (a) An unspecified existing judgeship for which the incumbent judge is seeking election.
- (b) An unspecified existing judgeship for which the incumbent judge is not seeking election.
- (c) A new judgeship.

It is significant that the Legislature differentiates between the offices of the court. Candidates do not run as a group against all the open seats. Instead, each candidate must designate and compete for a particular seat. Thus, the Legislature has evidenced its intent that each judicial seat on a district court be treated as legally distinct from the other judicial seats on that same court.

Moreover, despite the requirement that district court candidates identify the specific seat sought when filing nominating petitions, the Legislature did not require such specificity of incumbent judges filing affidavits of candidacy. On the contrary, section 467c(1) of the Election Law specifically limits the ability to file a candidacy as an incumbent where a judge is seeking election to “the office of which he or she is an incumbent.” If the Legislature had intended district court incumbent judges to be eligible to file as incumbents for any seat of the court, section 467c would also require the judge to designate, as required in section 467b, exactly what office he or she sought to be elected to. In the absence of such a requirement to specify the judicial office sought, it is

reasonable to conclude that an incumbent judge must file nominating petitions when seeking election to any judicial office other than the office he or she presently holds.

It is my opinion, therefore, in answer to your second question, that a sitting district court judge, in order to become a candidate for a judgeship in another division of the same district court, must file the appropriate nominating petitions under section 467b of the Michigan Election Law.

JENNIFER M. GRANHOLM  
Attorney General





Section 748 of the Mental Health Code contains two subsections pertinent to your question. The first is subsection (5)(d), which provides that mental health services records *shall* be disclosed “[i]f necessary to comply with another provision of law.” A study of the legislative history of this provision indicates that it was originally enacted in 1974 when the Mental Health Code was adopted, and although located under different subsections, its substance has remained unchanged.

The second subsection relevant to your question is subsection (6). This provision, added to the Mental Health Code by 1995 PA 290, governs disclosure of such records to the recipient or, in the case of a minor recipient, to the minor’s parent or guardian. It provides that:

(6) Except as otherwise provided in subsection (4), *if consent is obtained from the recipient, the recipient’s guardian with authority to consent, the parent with legal custody of a minor recipient, or the court-appointed personal representative or executor of the estate of a deceased recipient, information made confidential by this section may be disclosed to all of the following:*

(a) A provider of mental health services to the recipient.

(b) The recipient or his or her guardian or *the parent of a minor recipient* or another individual or agency unless in the written judgment of the holder the disclosure would be detrimental to the recipient or others. [Emphasis added.]

Thus, section 748(6) of the Mental Health Code expressly provides that information in a minor child’s mental health services records may be released to the child’s parent, including a noncustodial parent, only if (i) consent is obtained from the child’s custodial parent, and (ii) the record holder does not determine in writing that disclosure would be detrimental to the recipient or others.

The second statute germane to your inquiry is the Child Custody Act of 1970 (Child Custody Act), 1970 PA 91, MCL 722.21 *et seq.* Section 10 of that Act provides that:

Notwithstanding any other provision of law, *a parent shall not be denied access to records or information concerning his or her child because the parent is not the child’s custodial parent*, unless the parent is prohibited from having access to the records or information by a protective order. As used in this section, “records or information” includes, but

is not limited to, medical, dental, and school records, day care provider's records, and notification of meetings regarding the child's education. [Emphasis added.]

This provision was added to the Child Custody Act by 1996 PA 304, effective January 1, 1997. Your inquiry asks, in effect, if this provision constitutes "another provision of law" within the meaning of section 748(5)(d) of the Mental Health Code, effectively requiring disclosure to a noncustodial parent despite the provisions of subsection 748(6) of the Code. You express concern that such a construction could result in the release of a child's mental health records to a parent who may have caused the very harm for which the child is being treated.

A cardinal rule of statutory construction is to ascertain and give effect to the intent of the Legislature. *Browder v Int'l Fidelity Ins Co*, 413 Mich 603, 611; 321 NW2d 668 (1982). Meaning and effect must be given to every word and sentence of a statute, *Robinson v Detroit*, 462 Mich 439, 459; 613 NW2d 307 (2000), so as to produce, if possible, a harmonious result. *Weems v Chrysler Corp*, 448 Mich 679, 699-700; 533 NW2d 287 (1995).

In enacting section 748 of the Mental Health Code, the Legislature clearly expressed its concern over the especially sensitive nature of mental health records by placing stringent restrictions on the dissemination of information contained in those records. Even when the disclosure is sought by the patient, or by a parent or guardian on behalf of a minor patient, the Legislature has seen fit to impose restrictions on disclosure including a provision that the holder of the record may withhold the information if, in the holder's judgment, disclosure "would be detrimental to the recipient or others." Mental Health Code, section 748(6)(b). Significantly, this restriction appears only in subsection (6) of section 748, and not in subsection (5)(d). Thus, if section 10 of the Child Custody Act were to be read as a law requiring disclosure of a child's mental health records to a noncustodial parent, an anomalous result would occur: while the custodial parent would be able to obtain those records only pursuant to section 748(6) of the Mental Health Code, subject to the specific restrictions contained

in that provision, the noncustodial parent would be able to obtain the records pursuant to section 748(5), relying on section 10 of the Child Custody Act, without regard to those restrictions. As a result, unless the noncustodial parent were subject to a protective order, as provided in section 10 of the Child Custody Act, he or she would be able to obtain the child's mental health records even if the holder of the records determined that the release would be detrimental to the child or to others under section 748(6)(b) of the Mental Health Code. The noncustodial parent, thus, would possess a greater right of access to the minor's mental health records than the custodial parent. It is unlikely, however, that the Legislature intended this result.

Nor does the plain language of section 10 of the Child Custody Act require such a result. By its plain terms, section 10 prohibits the holder of a minor's health care records from using a parent's lack of custody as a basis for denying access to such records. Nothing in section 10 prohibits the use of other lawful reasons for withholding such records and, more importantly, nothing in that section authorizes or compels the disclosure of records that are otherwise protected from disclosure. In other words, if a parent is entitled to have access to a minor's particular record, section 10 prohibits the holder of that record from denying that access based solely on the parent's lack of custody; it does not, however, create a right of access where no such right would otherwise exist.

As is noted above, section 748 of the Mental Health Code expressly prohibits disclosure of mental health records except as specifically authorized in that section. Disclosure may be made to a parent, including a noncustodial parent, only if (i) consent is obtained from the minor child's custodial parent, and (ii) the record holder does not determine in writing that disclosure would be detrimental to the recipient or others. Under the express terms of section 748(6), disclosure is strictly prohibited if either of these conditions is not met. Moreover, a denial of access based on either of these conditions is not a denial based solely on lack of custody within the meaning of section 10 of the Child Custody Act. To the contrary, even if disclosure is refused due to the lack or refusal of consent by the custodial parent, that denial is predicated on the failure to obtain the

legislatively mandated consent of the child's custodial parent, not strictly or solely upon the requesting parent's lack of custody.

If the Legislature concludes that the noncustodial parent of a minor should be afforded a greater degree of access to the minor's mental health records, it may, of course, accomplish this by amending section 748(6) of the Mental Health Code.

It is my opinion, therefore, that section 10 of the Child Custody Act does not require disclosure of a minor's mental health services records to the child's noncustodial parent without the consent of the custodial parent required by section 748(6) of the Mental Health Code.

JENNIFER M. GRANHOLM  
Attorney General

---

OPINIONS OF THE ATTORNEY GENERAL

---

**OPINION OF THE ATTORNEY GENERAL**

INCOMPATIBILITY: Assistant county prosecutor serving  
on municipal utility board

PROSECUTING ATTORNEYS:

PUBLIC OFFICES AND OFFICERS:

The Incompatible Public Offices Act does not prohibit the same person from simultaneously serving as an assistant county prosecuting attorney and as an elected member of a municipal utility board in the same county, in the absence of negotiations for or a contract between the two public bodies or commencement of a civil or criminal action by the county prosecuting attorney against the municipal utility board.

Opinion No. 7093

October 24, 2001

Mr. Gary Walker  
Marquette County Prosecutor  
234 Baraga Avenue  
Marquette, MI 49855

You have asked whether the Incompatible Public Offices Act prohibits the same person from simultaneously serving as an assistant county prosecuting attorney and as an elected member of a municipal utility board in the same county.

In the Incompatible Public Offices Act (Act), 1978 PA 566, MCL 15.181 *et seq*, the Legislature has addressed the simultaneous holding of multiple public offices. Section 2 prohibits public officers and employees from simultaneously holding two or more incompatible offices. Section 1(b) defines "incompatible offices" as follows:

"Incompatible offices" means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.

- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office.

An assistant prosecuting attorney is a public officer under the Act. OAG, 1977-1978, No 5397, p 677 (November 14, 1978). It is also clear that an elected member of a municipal utility board is a public officer under the Act. See section 1(e)(ii). Thus, both positions are subject to the Act. The duties and responsibilities of each public office must, therefore, be examined to determine whether a prohibited incompatibility exists.

The prosecuting attorney is the chief law enforcement officer of the county. *People v Matulonis*, 60 Mich App 143, 149; 230 NW2d 347 (1975). The prosecuting attorney is empowered to appoint assistant prosecuting attorneys (MCL 49.41), who:

[S]hall hold his office during the pleasure of the prosecuting attorney appointing him, perform any and all duties pertaining to the office of prosecuting attorney at such time or times as he may be required so to do by the prosecuting attorney and during the absence or disability from any cause of the prosecuting attorney. [MCL 49.42.]

Members of a municipal utility board generally manage and operate the municipality's utility in furnishing public utility services provided by the municipality to its residents and others.

The Attorney General has concluded that under the Act, a subordinate and supervisory relationship results where: (1) one office sets and approves the compensation of another office, OAG, 1991-1992, No 6713, p 132 (February 24, 1992); (2) where one office has the power of appointment or removal over another office, OAG, 1995-1996, No 6834, pp 9, 10 (February 3, 1995); or (3) where one office reviews the accounts of the other public office, OAG, 1991-1992, No 6713, *supra*. Applying these standards, the positions of assistant county prosecuting attorney and member of a municipal utility board are neither supervisory nor subordinate to one another and, thus, are not incompatible under sections 1(b)(i) or (ii) of the Act.

Given this conclusion, incompatibility will result only if the holding of both positions results in a breach of duty under section 1(b)(iii) of the Act. A breach of duty arises when a public official holding dual public offices cannot simultaneously protect, promote, or advance the interests of both offices. OAG, 1997-1998, No 6931, pp 5, 7 (February 3, 1997). But, as the words chosen by the Legislature in section 1(b)(iii) of the Act clearly indicate, the action of the public officer in performing his or her duties must first *result* in a breach of duty of a public office in order to give rise to a prohibited incompatibility. OAG, 1979-1980, No 5626, pp 537, 542 (January 16, 1980).

In *Macomb County Prosecuting Attorney v Murphy*, 464 Mich 149, 163-164; 627 NW2d 247 (2001), the Michigan Supreme Court considered the reasoning in OAG, 1979-1980, No 5626. In that case, a public officer simultaneously served as a township trustee and as the county's delinquent personal property tax coordinator voting on a township board decision to continue collecting its own delinquent personal property taxes in the absence of negotiations for or a contract with the county to collect the taxes. There, the court approved the reasoning in OAG, 1979-1980, No 5626, and concluded that vacation of one or the other public position was not required where the county never negotiated with or contracted with the township to collect the township delinquent personal property taxes. The court noted that although voting on the question to continue collecting township delinquent taxes amounted to disloyalty to the county, it did not warrant vacation of the county public position. 464 Mich at 166, n 15. Under the holding in this case, vacation of one public office or public position is required only when the action taken by the public officeholder *results* in an actual breach of duty. That a breach of duty may occur in the future or that a potential conflict exists does not establish incompatible offices. 464 Mich at 163.

In the absence of a contract or negotiations for a contract between the county and the municipal utility board, there is no basis for concluding that the performance of duties of both public offices would result in an actual breach of duty requiring the public officer to vacate one or the other of the offices. Should the county and

the municipal utility board enter into negotiations for or a contract between the two public bodies, vacation of one of the offices, depending upon the specific facts, may be required by section 2(b)(iii) of the Act. Likewise, if the county prosecuting attorney were to commence a civil or criminal action against the municipal utility board, depending on the specific facts, the assistant prosecuting attorney could likely not serve in both public offices and would be required to vacate one of them.

It is noted that OAG, 1985-1986, No 6349, p 238 (March 21, 1986), concluded that an assistant county prosecutor could not simultaneously serve as an elected member of a city council without violating Const 1963, art 3, § 2, which provides for the separation of powers of government. Under the facts in your question, however, the municipal utility board is in the executive branch of government, as is the office of assistant county prosecutor. Thus, OAG, 1985-1986, No 6349, and the separation of powers principle do not apply to your question.

It is my opinion, therefore, that the Incompatible Public Offices Act does not prohibit the same person from simultaneously serving as an assistant county prosecuting attorney and as an elected member of a municipal utility board in the same county, in the absence of negotiations for or a contract between the two public bodies or commencement of a civil or criminal action by the county prosecuting attorney against the municipal utility board.

JENNIFER M. GRANHOLM  
Attorney General



---

**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2001 SESSION)**

---

*Mich. Const. Art. IV, §33 provides: "Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated."*

*Mich. Const. Art. IV, §27, further provides: "No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house."*

*MCL 24.208 states in part:*

*"Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\* \* \*

*(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.*

*(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year."*

---

**ENROLLED SENATE AND HOUSE BILLS  
SIGNED INTO LAW OR VETOED  
(2001 SESSION)**

---

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
1		71	Yes	3/29	3/29	06/01/01	<b>CRIMES;</b> Homicide; certain crimes against prenatal children; expand to include death to the embryo or fetus. <b>(Sen. W. Van Regenmorter)</b>
2		70	Yes	3/29	3/29	6/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for crime of killing fetus or embryo; enact. <b>(Sen. B. Schuette)</b>
3		199	No	3/29	3/29	07/01/02	<b>INSURANCE;</b> No-fault; Michigan catastrophic claims association retention limits; provide for. <b>(Sen. J. Emmons)</b>
4	4322		Yes	3/30	3/30	03/30/01	<b>INSURANCE;</b> Insurers; coverage for home health care or assisted living services and assisted living facility stays; require definition. <b>(Rep. S. Tabor)</b>
5	4234		Yes	4/11	4/12	04/12/01	<b>TRANSPORTATION;</b> Railroads; amount contributed by road authority for maintenance of active traffic control devices; revise. <b>(Rep. J. Allen)</b>
6		1	Yes	5/2	5/2	05/02/01	<b>CRIMINAL PROCEDURE;</b> Statute of limitations; statute of limitations for certain cases of criminal sexual conduct in which DNA evidence was obtained; eliminate. <b>(Sen. S. Johnson)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.  
 \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.  
 \*\*\* - See Act for applicable effective date.  
 + - Line item veto  
 # - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
7		341	Yes	5/24	5/24	05/24/01	<b>PROPERTY TAX;</b> Millage; state education tax act; expand to include a credit against tax levied under certain circumstances. <b>(Sen. M. Goschka)</b>
8	4187		Yes	5/24	5/25	05/25/01	<b>CORRECTIONS;</b> Prisoners; visitation; clarify procedures regarding minors visiting prisoners. <b>(Rep. T. Stamas)</b>
9		67	Yes	5/29	5/29	05/29/01	<b>FAMILY LAW;</b> Marriage and divorce; section prohibiting certain marriages; repeal. <b>(Sen. B. Hammerstrom)</b>
10		103	Yes	5/29	5/29	5/29/2001 #	<b>FAMILY LAW;</b> Marriage and divorce; reference in "the code of criminal procedure" to section being repealed; strike out. <b>(Sen. B. Hammerstrom)</b>
11		104	Yes	5/29	5/29	05/29/01	<b>FAMILY LAW;</b> Marriage and divorce; reference to section being repealed in "revised judicature act of 1961"; strike out. <b>(Sen. M. Goschka)</b>
12		38	Yes	5/29	5/29	07/01/01	<b>WATERCRAFT;</b> Intoxication; maximum imprisonment for boating under the influence; increase. <b>(Sen. W. North)</b>
13		150	Yes	5/29	5/29	7/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for boating under the influence; provide for. <b>(Sen. W. North)</b>
14	4099		Yes	6/5	6/6	9/1/2001 #	<b>HUMAN SERVICES;</b> Children's services; self-defense training of children's protective services caseworkers; require, and allow children's protective services caseworkers to perform certain duties in pairs. <b>(Rep. A. Sanborn)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
15	4409		Yes	6/11	6/12	6/12/2001 #	<b>VEHICLES;</b> Snowmobiles; snowmobile trail permit fee; increase and provide for allocation, increase civil fine for failure to secure a permit, and require report on expenditure of increase. <b>(Rep. D. Mead)</b>
16	4538		Yes	6/11	6/12	6/12/2001 #	<b>VEHICLES;</b> Snowmobiles; snowmobile trail permit fee; provide for allocation of increase. <b>(Rep. D. Mead)</b>
17	4235		Yes	6/11	6/12	6/12/01	<b>HIGHWAYS;</b> Name; renaming of M-109; establish as "D.H. Day Highway". <b>(Rep. J. Allen)</b>
18	4550		Yes	6/11	6/12	6/12/01	<b>TRAFFIC CONTROL;</b> Parking; disabled person parking permit; allow for out-of-state physician signatures accompanied by a copy of the physician's license to practice. <b>(Rep. G. DeRossett)</b>
19		75	Yes	6/11	6/12	9/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; crime of impersonating a family independence agency employee; include in sentencing guidelines. <b>(Sen. J. Gougeon)</b>
20		74	Yes	6/11	6/12	9/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; crime of threatening or physically harming a family independence agency employee; include in sentencing guidelines. <b>(Sen. B. Hammerstrom)</b>
21		73	Yes	6/11	6/12	9/1/2001 #	<b>CRIMES;</b> Fraud; penalties for impersonating a family independence agency employee; provide for. (Sen. J. Gougeon)
22		72	Yes	6/11	6/12	9/1/2001 #	<b>CRIMES;</b> Penalties; penalties for individuals who threaten or impose physical harm to a family independence agency employee; create. <b>(Sen. B. Hammerstrom)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
23	4412		Yes	6/17	6/18	06/18/01	<b>NATURAL RESOURCES;</b> Hunting; shooting preserves; change to game bird hunting preserves, revise licensing fee, and eliminate rule-making authority. <b>(Rep. L. DeVuyst)</b>
24		431	Yes	6/17	6/18	06/18/01	<b>INSURANCE;</b> Other; privacy requirements; enact. <b>(Sen. B. Bullard Jr.)</b>
25	4029		Yes	6/18	6/19	01/01/02	<b>INSURANCE;</b> Other; claim history dollar amounts for nonrenewal of homeowner's policy; increase. <b>(Rep. A. Richner)</b>
26	4166		Yes	6/21	6/22	06/22/01	<b>HEALTH;</b> Death; county medical examiner conducting statutorily required investigation of a death; grant subpoena power to require production of medical records, books, papers, documents, and other items. <b>(Rep. G. Van Woerkom)</b>
27	4429		Yes	6/21	6/22	06/22/01	<b>EDUCATION;</b> Board members; appointed members as part of majority vote requirement; include. <b>(Rep. T. Meyer)</b>
28	4505		Yes	6/21	6/22	06/22/01	<b>CONSTRUCTION;</b> Contracts; notification of certain differing site conditions; repeal sunset. <b>(Rep. J. Gilbert I)</b>
29	4630		Yes	6/28	6/28	06/28/01	<b>EDUCATION;</b> School districts; school districts to adopt parental involvement contracts; encourage and require department to develop model. <b>(Rep. W. Kuipers)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
30	4789		Yes	6/28	6/29	06/29/01	<b>RETIREMENT</b> ; Public school employees; postretirement earnings limitations; revise and extend certain sunset dates. <b>(Rep. J. Allen)</b>
31		56	Yes	6/28	6/29	06/29/01	<b>RECORDS</b> ; Other; vital records fees; increase. <b>(Sen. J. Schwarz)</b>
32		195	Yes	6/28	6/29	06/29/01	<b>LAW ENFORCEMENT</b> ; Fire personnel; civilian injured during fire demonstration; require state fire marshal to investigate. <b>(Sen. M. Goschka)</b>
33		350	Yes	6/28	6/29	06/29/01	<b>AGRICULTURE</b> ; Animals; testing requirements for equines; revise and establish identification system. <b>(Sen. L. Stille)</b>
34		29	Yes	6/28	6/29	03/01/02	<b>LOCAL GOVERNMENT</b> ; Bonds; revised municipal finance act; adopt. <b>(Sen. J. Emmons)</b>
35	4222		Yes	6/28	6/29	6/29/2001 #	<b>COUNTIES</b> ; Other; annual report to state board of assessors; require county tax or equalization department to make. <b>(Rep. M. Mortimer)</b>
36	4223		Yes	6/28	6/29	6/29/2001 #	<b>COUNTIES</b> ; Other; annual tabular statement to state tax commission; require county tax or equalization department to make. <b>(Rep. M. Mortimer)</b>
37		360	Yes	7/10	7/11	7/11/2001 #	<b>CITIES</b> ; Other; cities to form nonprofit corporations; allow. <b>(Sen. J. Gougeon)</b>
38		361	Yes	7/10	7/11	7/11/2001 #	<b>CITIES</b> ; Other; nonprofit corporations formed by cities; make subject to open meetings act. <b>(Sen. J. Gougeon)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

## 2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
39		491	Yes	7/11	7/11	07/11/01	<b>USE TAX;</b> Exemptions; aircraft used in commercial transport of passengers; exempt sale for lease. <b>(Sen. B. Bullard Jr.)</b>
40		492	Yes	7/11	7/11	07/11/01	<b>SALES TAX;</b> Exemptions; aircraft used in commercial transport of passengers; exempt sale for lease. <b>(Sen. B. Bullard Jr.)</b>
41	4255		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Corrections; department of corrections; provide for fiscal year 2001-2002. <b>(Rep. C. LaSata)</b>
42	4256		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Education; department of education; provide for fiscal year 2001-2002. <b>(Rep. R. Jelinek)</b>
43	4257		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Environmental quality; department of environmental quality; provide for fiscal year 2001-2002. <b>(Rep. D. Mead)</b>
44	4259		Yes	7/19	7/23	07/23/01	<b>APPROPRIATIONS;</b> Natural resources; department of natural resources; provide for fiscal year 2001-2002. <b>(Rep. D. Mead)</b>
45		231	Yes	7/19	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> Capital outlay; 2001-2002 fiscal year; provide for. <b>(Sen. H. Gast)</b>
46		256	Yes	7/20	7/23	07/23/01	<b>LIQUOR;</b> Other; employee samples of certain alcoholic beverages; allow under certain conditions. <b>(Sen. S. Johnson)</b>
47		396	Yes	7/20	7/23	07/23/01	<b>HIGHWAYS;</b> Signs; signs on limited access highways disclosing hospital name and highway exit number; require. <b>(Sen. T. McCotter)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
48		446	Yes	7/20	7/23	07/23/01	<b>PUBLIC UTILITIES;</b> Other; clarification of public utilities; provide for. <b>(Sen. M. Dunaskiss)</b>
49	4792		Yes	7/20	7/23	07/23/01	<b>ENVIRONMENTAL PROTECTION;</b> Air pollution; fee structure that funds air quality operating permit program; revise. <b>(Rep. C. LaSata)</b>
50	4912		Yes	7/20	7/23	07/23/01	<b>NATURAL RESOURCES;</b> Trust funds; game and fish trust fund; authorize annual appropriation of \$6,000,000.00 from corpus to game and fish protection fund. <b>(Rep. L. DeVuyst)</b>
51		238	Yes	7/20	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> State police; department of state police; provide for fiscal year 2001-2002. <b>(Sen. P. Hoffman)</b>
52	4253		Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Community colleges; community and junior colleges; provide for fiscal year 2001-2002. <b>(Rep. T. Stamas)</b>
53		230	Yes	7/20	7/23	7/23/2001 +	<b>APPROPRIATIONS;</b> Agriculture; department of agriculture; provide for fiscal year 2001-2002. <b>(Sen. G. McManus Jr.)</b>
54		237	Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Military affairs; department of military affairs; provide for fiscal year 2001-2002. <b>(Sen. P. Hoffman)</b>
55		236	Yes	7/20	7/23	07/23/01	<b>APPROPRIATIONS;</b> Other; judiciary budget; provide for fiscal year 2001-2002. <b>(Sen. W. North)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar



## 2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
56	4576		Yes	7/23	7/23	07/23/01	<b>HIGHWAYS;</b> Name; renaming a certain portion of I-69; establish as "Pearl Harbor Memorial Highway". <b>(Rep. L. Julian)</b>
57		206	Yes	7/23	7/23	07/23/01	<b>BUSINESSES;</b> Business corporations; general amendments; provide for. <b>(Sen. B. Bullard Jr.)</b>
58		216	Yes	7/23	7/23	07/23/01	<b>BUSINESSES;</b> Other; professional services corporations; clarify applicability of business corporations act to. <b>(Sen. B. Bullard Jr.)</b>
59		239	Yes	7/23	7/24	7/24/2001 +	<b>APPROPRIATIONS;</b> Transportation; state transportation department; provide for fiscal year 2001-2002. <b>(Sen. P. Hoffman)</b>
60	4254		Yes	7/23	7/24	7/24/2001 +	<b>APPROPRIATIONS;</b> Community health; department of community health; provide for fiscal year 2001-2002. <b>(Rep. M. Mortimer)</b>
61	4939		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Department of management and budget act; transfer management and operation of the Michigan library and historical center facilities to the department of management and budget. <b>(Rep. T. George)</b>
62	4940		Yes	7/23	7/24	10/01/01	<b>STATE AGENCIES (PROPOSED);</b> Library of Michigan act; transfer to department of history, arts, and libraries. <b>(Rep. T. George)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
63	4941		Yes	7/23	7/24	08/06/01	<b>STATE AGENCIES (PROPOSED);</b> Department of history, arts, and libraries; create in statute. <b>(Rep. G. Van Woerkom)</b>
64	4942		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED);</b> District library establishment act; transfer to department of history, arts, and libraries. <b>(Rep. L. Lemmons III)</b>
65	4943		Yes	7/23	7/24	10/1/2001 #	<b>STATE AGENCIES (PROPOSED);</b> State aid to public libraries; transfer to department of history, arts, and libraries. <b>(Rep. M. Middaugh)</b>
66	4944		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Michigan historical commission; transfer to department of history, arts, and libraries. <b>(Rep. J. Kooiman)</b>
67	4945		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Local historic districts act; transfer to department of history, arts, and libraries. <b>(Rep. A. Sanborn)</b>
68	4946		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Preservation of historical sites under the jurisdiction of downtown development authority; transfer to department of history, arts, and libraries. <b>(Rep. P. Birkholz)</b>
69	4947		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Single business tax credit for rehabilitation of a historic resource with certification by Michigan historical center; transfer to department of history, arts, and libraries. <b>(Rep. M. Bishop)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
70	4948		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Income tax credit for rehabilitation of historic resource with certification by Michigan historic center; transfer to department of history, arts, and libraries. <b>(Rep. S. Vear)</b>
71	4949		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Records management, retention, disposal, inspection, inventory, protection, and preservation; transfer to department of history, arts, and libraries. <b>(Rep. J. Rivet)</b>
72	4950		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Records media act; transfer to department of history, arts, and libraries. <b>(Rep. P. Zelenko)</b>
73	4951		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Historic sites; transfer to department of history, arts, and libraries. <b>(Rep. M. Mortimer)</b>
74	4952		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Authority to promulgate rules to provide for the disclosure of the location of archaeological sites; transfer to department of history, arts, and libraries. <b>(Rep. J. Koetje)</b>
75	4953		Yes	7/23	7/24	07/24/01 #	<b>STATE AGENCIES (PROPOSED);</b> Aboriginal records and antiquities; transfer to department of history, arts, and libraries. <b>(Rep. J. Gilbert II)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.
- \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.
- \*\*\* - See Act for applicable effective date.
- + - Line item veto
- # - Tie bar

## 2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
76	4954		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Reproduction and destruction of court records; transfer to department of history, arts, and libraries. <b>(Rep. W. McConico)</b>
77	4955		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Michigan iron industry museum advisory board; transfer to department of history, arts, and libraries. <b>(Rep. D. Bovin)</b>
78	4956		Yes	7/23	7/24	8/6/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Mackinac Island state park commission and property under its control; transfer to department of history, arts, and libraries. <b>(Rep. S. Tabor)</b>
79	4957		Yes	7/23	7/24	7/24/2001 #	<b>STATE AGENCIES (PROPOSED);</b> Michigan freedom trail commission; transfer to department of history, arts, and libraries. <b>(Rep. S. Thomas III)</b>
80		232	Yes	7/23	7/25	07/25/01	<b>APPROPRIATIONS;</b> Other; department of career development and Michigan strategic fund; provide for fiscal year 2001-2002. <b>(Sen. S. Johnson)</b>
81		283	Yes	7/25	7/25	7/25/2001 +	<b>APPROPRIATIONS;</b> Supplemental; supplemental appropriation; provide for fiscal year 2000-2001. <b>(Sen. H. Gast)</b>
82		235	Yes	7/25	7/25	7/25/2001 +	<b>APPROPRIATIONS;</b> Family independence agency; family independence agency; provide for fiscal year 2001-2002. <b>(Sen. M. Goschka)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.  
 \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.  
 \*\*\* - See Act for applicable effective date.  
 + - Line item veto  
 # - Tie bar

## 2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
83		234	Yes	7/25	7/25	07/25/01	<b>APPROPRIATIONS;</b> General; general government; provide for fiscal year 2001-2002. <b>(Sen. J. Schwarz)</b>
84		394	Yes	7/26	7/26	1/1/2002 #	<b>JUVENILES;</b> Criminal procedure; DNA samples to be collected from certain juvenile offenders; require. <b>(Sen. B. Bullard Jr.)</b>
85	4633		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples under the youth rehabilitation services act from all individuals who have been convicted of or found responsible for a felony; require. <b>(Rep. W. O'Neil)</b>
86	4612		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples by the department of corrections from all individuals who have been convicted of a felony; require. <b>(Rep. M. Kowall)</b>
87		389	Yes	7/26	7/26	1/1/2002 #	<b>LAW ENFORCEMENT;</b> State police; DNA database; expand to include certain crimes and juvenile offenses. <b>(Sen. W. Van Regenmorter)</b>
88	4610		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples; expand to all convicted felons and provide penalty for refusing to give sample. <b>(Rep. J. Faunce)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
89	4613		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples under the Michigan penal code from all individuals who have been convicted of a felony; require. <b>(Rep. T. George)</b>
90		393	Yes	7/26	7/26	1/1/2002 #	<b>JUVENILES;</b> Criminal procedure; DNA samples to be collected from certain juvenile offenders; require. <b>(Sen. T. McCotter)</b>
91	4611		Yes	7/26	7/26	1/1/2002 #	<b>CRIMINAL PROCEDURE;</b> Evidence; collection and retention of DNA samples under the probate code of 1939 from all individuals who have been convicted of or found responsible for a felony; require. <b>(Rep. L. Julian)</b>
92	4547		Yes	7/27	7/30	07/30/01	<b>PROPERTY;</b> Conveyances; certain state owned property in Macomb county, Delta county, and Ingham county; provide for conveyance. <b>(Rep. A. Sanborn)</b>
93	4459		Yes	7/27	7/30	07/30/01	<b>ECONOMIC DEVELOPMENT;</b> Enterprise zones; neighborhood enterprise zone expansion to include exemption for certain homes; provide for. <b>(Rep. L. Lemmons III)</b>
94		547	Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX;</b> Delinquent taxes; delinquent property tax forfeiture and foreclosure process; revise. <b>(Sen. S. Johnson)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.
- \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.
- \*\*\* - See Act for applicable effective date.
- + - Line item veto
- # - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
95	4709		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX;</b> Other; certain reference to publication requirements; eliminate. <b>(Rep. R. Richardville)</b>
96	4711		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX;</b> Other; hardship standards; clarify. <b>(Rep. L. Hager)</b>
97	4713		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX;</b> Payment and collection; payment of taxes and exemption from interest, penalties, and fees; provide for technical amendments. <b>(Rep. A. Sanborn)</b>
98	4715		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX;</b> Payment and collection; payment of certain delinquent taxes; provide for technical amendments. <b>(Rep. W. McConico)</b>
99	4716		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX;</b> Delinquent taxes; ability to expend proceeds of delinquent land sales; expand to include counties. <b>(Rep. P. Birkholz)</b>
100	4717		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX;</b> Delinquent taxes; May tax lien sale; prohibit after May 2001 for delinquent 1998 taxes. <b>(Rep. J. Gilbert II)</b>
101	4718		Yes	7/27	7/30	07/30/01	<b>PROPERTY TAX;</b> Other; certain recording requirements and requirement for vendor to be a licensed title insurance company or agent; eliminate. <b>(Rep. R. Jamnick)</b>
102	4540		Yes	7/27	7/30	07/30/01	<b>SALES TAX;</b> Exemptions; requirement for certificates of exemption; exclude certain individuals licensed by the Michigan liquor control commission. <b>(Rep. M. Kowall)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
103		373	Yes	7/27	7/30	10/01/01	<b>CRIMES;</b> Vehicle offenses; penalties for injuring or causing death to construction workers in a construction zone and to operators of implements of husbandry; increase. <b>(Sen. B. Bullard Jr.)</b>
104		374	Yes	7/27	7/30	10/1/2001 #	<b>CRIMINAL PROCEDURE;</b> Sentencing guidelines; sentencing guidelines for certain crimes involving construction workers in a construction zone and operators of implements of husbandry; provide for. <b>(Sen. B. Bullard Jr.)</b>
105		464	Yes	7/27	7/30	07/30/01	<b>FINANCIAL INSTITUTIONS;</b> Credit unions; conversion plan; establish procedures. <b>(Sen. S. Johnson)</b>
106		317	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN;</b> Support; provisions governing child support orders; consolidate in support and parenting time enforcement act and enact provisions related to dependent health care coverage. <b>(Sen. B. Hammerstrom)</b>
107		318	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN;</b> Support; divorce law; enact technical amendments to consolidate child support provisions and revise provisions related to capacity to marry. <b>(Sen. B. Hammerstrom)</b>
108		319	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN;</b> Support; child custody act; enact technical amendments to consolidate child support provisions. <b>(Sen. B. Hammerstrom)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.  
 \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.  
 \*\*\* - See Act for applicable effective date.  
 + - Line item veto  
 # - Tie bar



2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
109		320	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN;</b> Support; paternity act; enact technical amendments to consolidate child support provisions. <b>(Sen. S. Johnson)</b>
110		321	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN;</b> Support; act regulating status of minors; enact technical amendments to consolidate child support provisions. <b>(Sen. S. Johnson)</b>
111		322	Yes	7/27	7/30	9/30/2001 #	<b>CHILDREN;</b> Support; family support act; enact technical amendments to consolidate child support provisions. <b>(Sen. S. Johnson)</b>
112		463	Yes	7/27	7/30	07/30/01	<b>STATE;</b> Funds; certain withdrawals from the countercyclical budget and economic stabilization fund; clarify. <b>(Sen. H. Gast)</b>
113		351	Yes	7/30	7/31	07/31/01	<b>OCCUPATIONS;</b> Individual licensing and regulation; procedures for filing complaints against contractors; revise. <b>(Sen. G. Steil)</b>
114		152	Yes	8/6	8/6	08/06/01	<b>NATURAL RESOURCES;</b> Great Lakes; regulation of ballast water; provide for. <b>(Sen. K. Sikkema)</b>

- \* - I.E. means Legislature voted to give the Act immediate effect.  
 \*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.  
 \*\*\* - See Act for applicable effective date.  
 + - Line item veto  
 # - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
115		546	No	9/11	9/11	**	<b>LEGISLATURE;</b> Apportionment; redistricting of congressional districts according to 2000 census; provide for. <b>(Sen. B. Schuette)</b>
116	4965		No	9/11	9/11	**	<b>LEGISLATURE;</b> Apportionment; senate and house of representatives redistricting plan; create. <b>(Rep. A. Richner)</b>
117		545	No	9/11	9/11	**	<b>LEGISLATURE;</b> Apportionment; redistricting of court of appeals according to 2000 census; provide for. <b>(Sen. B. Schuette)</b>
118	4258		Yes	9/28	9/28	09/28/01	<b>APPROPRIATIONS;</b> Higher education; higher education; provide for fiscal year 2001-2002. <b>(Rep. S. Caul)</b>
119		233	Yes	9/28	9/28	9/28/01 +	<b>APPROPRIATIONS;</b> Consumer and industry services; department of consumer and industry services and other state purposes; provide for fiscal year 2001-2002. <b>(Sen. L. Bennett)</b>
120		291	Yes	9/28	9/28	9/28/2001 +	<b>APPROPRIATIONS;</b> Zero budget; department of history, arts, and libraries and supplemental; provide for fiscal year 2000-2001 and 2001-2002. <b>(Sen. H. Gast)</b>
121	4371		Yes	9/28	9/28	9/28/2001 +	<b>APPROPRIATIONS;</b> School aid; school aid appropriations for certain fiscal years; supplement and adjust. <b>(Rep. M. Shulman)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
122	5080		Yes	10/5	10/8	10/08/01	<b>SALES TAX;</b> Collections; equitable sales and use tax administration act; enact. <b>(Rep. J. Allen)</b>
123		551	Yes	10/5	10/8	10/08/01	<b>STATE;</b> Funds; surplus funds; authorize loans to certain farmer owned cooperatives. <b>(Sen. M. Goschka)</b>
124		602	Yes	10/12	10/12	10/12/01	<b>VEHICLES;</b> License plates; "proud to be American" specialty plate; create and earmark revenues to the American national red cross and the salvation army. <b>(Sen. S. Johnson)</b>
125	4627		Yes	10/11	10/15	10/15/01	<b>TRADE;</b> Consumer goods and services; rights and responsibilities of hotels and bed and breakfasts renting rooms to minors; define. <b>(Rep. J. Allen)</b>
126	4791		Yes	10/11	10/15	10/15/01	<b>TRANSPORTATION;</b> Funds; Soo locks fund; establish as a separate restricted fund within comprehensive transportation fund. <b>(Rep. S. Shackleton)</b>
127	4384		Yes	10/11	10/15	10/15/01	<b>EDUCATION;</b> Intermediate school districts; investment of funds in certain mutual funds; allow. <b>(Rep. W. Kuipers)</b>
128	4018		Yes	10/11	10/15	10/15/01	<b>NATURAL RESOURCES;</b> Hunting; repeal of Macomb county Sunday hunting ban; provide for. <b>(Rep. S. Rocca)</b>
129	4734		Yes	10/11	10/15	10/15/01	<b>TRANSPORTATION;</b> Carriers; motor bus transportation act; provide for adoption of certain revisions to the federal motor carrier safety regulations. <b>(Rep. J. Gilbert II)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

2001 MR 20

Public Act No.	Enrolled House Bill	Enrolled Senate Bill	I.E.* Yes / No	Governor Approved Date	Filed Date	Effective Date	Subject
130	4879		Yes	10/11	10/15	10/15/01	<b>TRANSPORTATION;</b> School vehicles; use of school buses to transport agricultural workers for certain agricultural purposes; allow. <b>(Rep. C. Brown)</b>
131	4793		Yes	10/11	10/15	10/15/01	<b>TORTS;</b> Governmental immunity; "governmental function" definition; add specific circumstance. <b>(Rep. A. Richner)</b>

\* - I.E. means Legislature voted to give the Act immediate effect.

\*\* - Act takes effect on the 91<sup>st</sup> day after *sine die* adjournment of the Legislature.

\*\*\* - See Act for applicable effective date.

+ - Line item veto

# - Tie bar

---

**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2001 SESSION)**

---

*MCL 24.208 states in part:*

*“Sec. 8. (1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:*

\*       \*       \*

*(i) Other official information considered necessary or appropriate by the office of regulatory reform.”*

*The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).*

---

**MICHIGAN ADMINISTRATIVE CODE TABLE**  
**(2001 RULE FILINGS)**

---

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
29.601	R	5	29.1503	A	5	29.1809	A	5
29.602	R	5	29.1504	A	5	29.1810	A	5
29.603	R	5	29.1506	A	5	29.1821	A	5
29.604	R	5	29.1507	A	5	29.1822	A	5
29.605	R	5	29.1508	A	5	29.1823	A	5
29.621	R	5	29.1509	A	5	29.1824	A	5
29.622	R	5	29.1701	A	5	29.1831	A	5
29.1001	R	5	29.1702	A	5	29.1832	A	5
29.1002	R	5	29.1703	A	5	29.1841	A	5
29.1003	R	5	29.1704	A	5	29.1842	A	5
29.1004	R	5	29.1705	A	5	29.1851	A	5
29.1005	R	5	29.1706	A	5	29.1852	A	5
29.1006	R	5	29.1707	A	5	29.1861	A	5
29.1007	R	5	29.1708	A	5	125.1025	R	12
29.1008	R	5	29.1710	A	5	125.1175	R	12
29.1009	R	5	29.1711	A	5	207.123	R	18
29.1010	R	5	29.1721	A	5	281.770.13	R	17
29.1021	R	5	29.1722	A	5	299.291a	R	20
29.1022	R	5	29.1723	A	5	299.301	R	20
29.1023	R	5	29.1731	A	5	299.302	R	20
29.1024	R	5	29.1732	A	5	299.303	R	20
29.1031	R	5	29.1733	A	5	299.321	R	20
29.1032	R	5	29.1801	A	5	299.322	R	20
29.1041	R	5	29.1802	A	5	299.323	R	20
29.1042	R	5	29.1803	A	5	299.324	R	20
29.1051	R	5	29.1804	A	5	299.325	R	20
29.1052	R	5	29.1805	A	5	299.326	R	20
29.1053	R	5	29.1806	A	5	299.327	R	20
29.1501	A	5	29.1807	A	5	299.328	R	20
29.1502	A	5	29.1808	A	5	299.331	R	20

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

# 2001 MR 20

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
299.332	R	20	324.1012	*	2	325.2125	*	2
299.333	R	20	324.1103	*	2	325.2126	*	2
299.334	R	20	324.1105	*	2	325.2127	*	2
299.335	R	20	324.1110	*	2	325.2128	*	2
299.661	R	20	324.1113	*	2	325.2129	*	2
299.662	R	20	324.1122	*	2	325.2129a	A	2
299.663	R	20	324.1125	*	2	325.2131	*	2
299.664	R	20	324.1129	*	2	325.2132	*	2
299.665	R	20	324.1130	A	2	325.2133	*	2
299.666	R	20	324.2001	A	16	325.2134	*	2
299.667	R	20	324.2002	A	16	325.2135	A	2
299.933	A	20	324.2003	A	16	325.2136	*	2
299.1001	R	20	324.2004	A	16	325.2137	*	2
299.1002	R	20	324.2005	A	16	325.2138	*	2
299.1003	R	20	324.2006	A	16	325.2141	*	2
299.1004	R	20	324.2007	A	16	325.2142	*	2
323.1151	R	16	324.2008	A	16	325.2143	*	2
323.1152	R	16	324.2009	A	16	325.2143a	A	2
323.1153	R	16	324.8915	A	1	325.2144	*	2
323.1154	R	16	325.2111	*	2	325.2145	*	2
323.1155	R	16	325.2113	*	2	325.2146	*	2
323.1156	R	16	325.2113a	A	2	325.2151	*	2
323.1157	R	16	325.2114	*	2	325.2152	*	2
323.1158	R	16	325.2115	*	2	325.2153	*	2
323.1159	R	16	325.2116	*	2	325.2154	*	2
323.1162	R	16	325.2117	*	2	325.2155	*	2
323.1163	R	16	325.2118	*	2	325.2156	*	2
323.1164	R	16	325.2118a	*	2	325.2157	*	2
323.1169	R	16	325.2118b	*	2	325.2158	*	2
324.102	*	2	325.2121	*	2	325.2159	*	2
324.416	*	2	325.2122	*	2	325.2161	*	2
324.504	*	2	325.2123	*	2	325.2163	*	2
324.1008	*	2	325.2124	A	2	325.2165	*	2

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

# 2001 MR 20

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
325.2171	*	2	325.3835	*	10	325.10601	*	9
325.2174	*	2	325.3851	R	10	325.10602	*	9
325.2175	*	2	325.3857	*	10	325.10603	*	9
325.2176	*	2	325.3866	*	10	325.10604	*	9
325.2178	*	2	325.3867	*	10	325.10605	*	9
325.2179	A	2	325.3868	*	10	325.10606	*	9
325.2181	*	2	325.3868a	A	10	325.10607	*	9
325.2182	A	2	325.10101	*	9	325.10608	*	9
325.2183	A	2	325.10102	*	9	325.10609	*	9
325.2184	A	2	325.10103	*	9	325.10701	*	9
325.2191	*	2	325.10104	*	9	325.10702	*	9
325.2192	*	2	325.10105	*	9	325.10703	*	9
325.2193	*	2	325.10106	*	9	325.10704	*	9
325.2194	*	2	325.10107	*	9	325.10705	*	9
325.2194a	A	2	325.10108	*	9	325.10706	*	9
325.2195	*	2	325.10109	*	9	325.10707	*	9
325.2196	*	2	325.10110	*	9	325.10708	*	9
325.2197	*	2	325.10411	A	9	325.10709	*	9
325.2198	*	2	325.10412	A	9	325.10710	*	9
325.2199	*	2	325.10413	A	9	325.10711	*	9
325.3801	*	10	325.10414	A	9	325.10712	*	9
325.3802	*	10	325.10415	A	9	325.10713	*	9
325.3803	A	10	325.10416	A	9	325.10714	*	9
325.3811	*	10	325.10417	A	9	325.10715	*	9
325.3812	*	10	325.10418	A	9	325.10716	*	9
325.3815	*	10	325.10419	A	9	325.10717	*	9
325.3816	*	10	325.10420	A	9	325.10718	*	9
325.3817	R	10	325.10501	*	9	325.10719	*	9
325.3818	R	10	325.10502	*	9	325.10720	*	9
325.3819	R	10	325.10503	*	9	325.10721	*	9
325.3826	*	10	325.10504	*	9	325.10722	*	9
325.3828	*	10	325.10505	*	9	325.10723	*	9
325.3832	*	10	325.10506	*	9	325.10724	*	9

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



# 2001 MR 20

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
325.10725	*	9	325.10820	*	9	325.11011	*	9
325.10726	*	9	325.10821	*	9	325.11012	*	9
325.10727	*	9	325.10822	*	9	325.11013	*	9
325.10728	*	9	325.10823	*	9	325.11014	*	9
325.10729	*	9	325.10824	*	9	325.11015	*	9
325.10730	*	9	325.10825	*	9	325.11016	*	9
325.10731	*	9	325.10826	*	9	325.11101	*	9
325.10732	*	9	325.10827	*	9	325.11102	*	9
325.10733	*	9	325.10828	*	9	325.11103	*	9
325.10734	*	9	325.10829	*	9	325.11104	*	9
325.10735	*	9	325.10830	*	9	325.11105	*	9
325.10736	*	9	325.10831	*	9	325.11106	*	9
325.10737	*	9	325.10832	*	9	325.11107	*	9
325.10738	*	9	325.10833	*	9	325.11108	*	9
325.10801	*	9	325.10901	*	9	325.11109	*	9
325.10802	*	9	325.10902	*	9	325.11110	*	9
325.10803	*	9	325.10903	*	9	325.11111	*	9
325.10804	*	9	325.10904	*	9	325.11112	*	9
325.10805	*	9	325.10905	*	9	325.11113	*	9
325.10806	*	9	325.10906	*	9	325.11114	*	9
325.10807	*	9	325.10907	*	9	325.11115	*	9
325.10808	*	9	325.10908	*	9	325.11116	*	9
325.10809	*	9	325.10909	*	9	325.11117	*	9
325.10810	*	9	325.11001	*	9	325.11118	*	9
325.10811	*	9	325.11002	*	9	325.11201	*	9
325.10812	*	9	325.11003	*	9	325.11202	*	9
325.10813	*	9	325.11004	*	9	325.11203	*	9
325.10814	*	9	325.11005	*	9	325.11204	*	9
325.10815	*	9	325.11006	*	9	325.11205	*	9
325.10816	*	9	325.11007	*	9	325.11206	*	9
325.10817	*	9	325.11008	*	9	325.11207	*	9
325.10818	*	9	325.11009	*	9	325.11301	*	9
325.10819	*	9	325.11010	*	9	325.11302	*	9

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

# 2001 MR 20

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
325.11303	*	9	325.11708	*	9	325.12110	*	9
325.11304	*	9	325.11709	*	9	325.12301	*	9
325.11305	*	9	325.11710	*	9	325.12302	*	9
325.11306	*	9	325.11711	*	9	325.12303	*	9
325.11307	*	9	325.11712	*	9	325.12304	*	9
325.11308	*	9	325.11713	*	9	325.12401	*	9
325.11309	*	9	325.11901	*	9	325.12402	*	9
325.11310	*	9	325.11902	*	9	325.12403	*	9
325.11311	*	9	325.11903	*	9	325.12404	*	9
325.11401	*	9	325.11904	*	9	325.12405	*	9
325.11402	*	9	325.11905	*	9	325.12406	*	9
325.11403	*	9	325.11906	*	9	325.12407	*	9
325.11404	*	9	325.11907	*	9	325.12408	*	9
325.11405	*	9	325.11908	*	9	325.12501	*	9
325.11406	*	9	325.11909	*	9	325.12502	*	9
325.11407	*	9	325.11910	*	9	325.12503	*	9
325.11501	*	9	325.11911	*	9	325.12504	*	9
325.11502	*	9	325.11912	*	9	325.12505	*	9
325.11503	*	9	325.11913	*	9	325.12506	*	9
325.11504	*	9	325.11914	*	9	325.12507	*	9
325.11505	*	9	325.11915	*	9	325.12508	*	9
325.11506	*	9	325.11916	*	9	325.12509	*	9
325.11601	*	9	325.11917	*	9	325.12510	*	9
325.11602	*	9	325.11918	*	9	325.12601	*	9
325.11603	*	9	325.12101	*	9	325.12602	*	9
325.11604	*	9	325.12102	*	9	325.12603	*	9
325.11701	*	9	325.12103	*	9	325.12604	*	9
325.11702	*	9	325.12104	*	9	325.12605	*	9
325.11703	*	9	325.12105	*	9	325.12606	*	9
325.11704	*	9	325.12106	*	9	325.12701	*	9
325.11705	*	9	325.12107	*	9	325.12702	*	9
325.11706	*	9	325.12108	*	9	325.12703	*	9
325.11707	*	9	325.12109	*	9	325.12704	*	9

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

# 2001 MR 20

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
325.12705	*	9	325.51004	A	13	336.1914	R	16
325.12706	*	9	325.51102	*	8	338.81	A	4
325.12801	*	9	325.51103	*	8	338.2503	R	12
325.12802	*	9	325.51104	*	8	338.10102	R	12
325.12803	*	9	325.51105	*	8	338.12003	*	8
325.12804	*	9	325.51106	R	8	339.15104	R	12
325.12805	*	9	325.51108	*	8	339.16004	R	12
325.12806	*	9	325.52201	A	18	339.17104	R	12
325.12807	*	9	325.52401	A	18	339.18901	*	15
325.12808	*	9	325.52701	A	18	339.18905	*	15
325.12809	*	9	325.70001	*	13	339.18921	*	15
325.12810	*	9	325.70002	*	13	339.18927	*	15
325.12811	*	9	325.70004	*	13	339.18929	*	15
325.12812	*	9	325.70015	*	13	339.18930	A	15
325.12813	*	9	325.70251	A	5	388.706	*	8
325.12814	*	9	325.77102	*	6	388.710	*	8
325.12815	*	9	325.77105	*	6	400.5103	*	7
325.12816	*	9	325.77107	*	6	408.4031	*	4
325.12817	*	9	325.77108	*	6	408.4038	*	4
325.12818	*	9	325.77109	*	6	408.30401	*	8
325.12819	*	9	325.77110	*	6	408.30402	*	8
325.12820	*	9	325.77111	*	6	408.30404	*	8
325.47201	A	14	325.77113	R	6	408.30405	*	8
325.47801	A	13	325.77114	*	6	408.30406	*	8
325.50251	A	10	325.77115	*	6	408.30408	*	8
325.50252	A	10	336.1210	*	15	408.30409	*	8
325.50253	A	10	336.1211	*	15	408.30410	*	8
325.50254	A	10	336.1212	*	15	408.30411	*	8
325.50255	A	10	336.1213	*	15	408.30412	*	8
325.50256	A	10	336.1214	*	15	408.30415a	*	8
325.50257	A	10	336.1215	*	15	408.30427	*	8
325.50258	A	10	336.1299	*	15	408.30427a	R	8
325.50902	A	13	336.1913	R	16	408.30427b	R	8

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

# 2001 MR 20

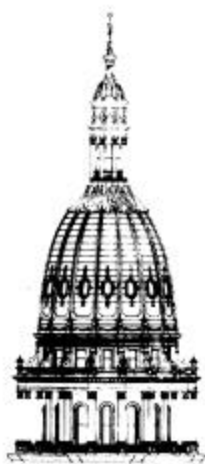
R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
408.30427c	R	8	408.30717	*	8	408.30908a	*	8
408.30427d	R	8	408.30718	*	8	408.30909a	*	8
408.30427e	R	8	408.30719	*	8	408.30910a	*	8
408.30429	*	8	408.30720	*	8	408.30915a	*	8
408.30430	*	8	408.30728	*	8	408.30916a	R	8
408.30432	*	8	408.30735	*	8	408.30918a	*	8
408.30437	*	8	408.30740a	*	8	408.30923a	*	8
408.30443	*	8	408.30740c	R	8	408.30924a	R	8
408.30445	*	8	408.30741c	*	8	408.30928a	*	8
408.30447	*	8	408.30744e	*	8	408.30935a	*	8
408.30448	*	8	408.30754b	*	8	408.30936a	*	8
408.30448d	*	8	408.30754c	R	8	408.30940a	R	8
408.30449	*	8	408.30749	*	8	408.30995a	*	8
408.30451c	*	8	408.30757	*	8	408.42201	*	20
408.30453	*	8	408.30758	*	8	408.42211	*	20
408.30457	*	8	408.30759a	R	8	408.42213	*	20
408.30458	*	8	408.30759b	R	8	408.42221	*	20
408.30461	A	8	408.30760	R	8	408.42222	R	20
408.30475	*	8	408.30761c	R	8	408.42223	*	20
408.30476	*	8	408.30785	*	8	408.42224	*	20
408.30495	A	8	408.30786	*	8	408.42225	A	20
408.30497	A	8	408.30791	*	8	408.42229	*	20
408.30499	*	8	408.30793	R	8	408.42230	*	20
408.30499a	R	8	408.30795	R	8	408.42233	*	20
408.30501	A	8	408.30795a	R	8	408.42234	*	20
408.30538	A	8	408.30796	R	8	408.42235	*	20
408.30701	*	8	408.30901a	*	8	408.42236	*	20
408.30711	*	8	408.30902a	*	8	408.32237	*	20
408.30712	R	8	408.30903a	R	8	408.32238	*	20
408.30713	R	8	408.30904a	*	8	408.42241	*	20
408.30714	*	8	408.30905a	*	8	408.42243	*	20
408.30715	*	8	408.30906a	*	8	418.10107	*	8
408.30716	*	8	408.30907a	*	8	418.10108	*	8

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)

# 2001 MR 20

R Number	Action	2001 MR Issue Number	R Number	Action	2001 MR Issue Number
418.10207	*	8	560.406	A	2
418.10404	*	8	560.407	A	2
418.101501	*	8	560.408	A	2
421.112	*	2	560.409	A	2
421.162	*	2	560.410	A	2
421.205	*	2	560.411	A	2
421.208	*	2	560.412	A	2
421.210	*	2	560.413	A	2
421.216	*	2	560.414	A	2
421.269	A	2	560.415	A	2
421.270	*	2	560.416	A	2
432.5	*	16	560.417	A	2
432.6	*	16	560.418	A	2
432.13	*	16	560.419	A	2
432.17	*	16	560.420	A	2
432.37	*	16	560.421	A	2
436.1527	*	7	560.422	A	2
451.2303	R	12	560.423	A	2
451.2304	R	12	560.424	A	2
460.2135	R	14	560.425	A	2
460.2601	A	14	560.426	A	2
460.2602	A	14	560.427	A	2
460.2621	A	14	560.428	A	2
460.2622	A	14			
460.2623	A	14			
460.2624	A	14			
460.2625	A	14			
460.20606	*	5			
560.401	*	2			
560.402	*	2			
560.403	*	2			
560.404	*	2			
560.405	*	2			

(\* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



---

**CUMULATIVE  
INDEX**

---

**A**

**AGRICULTURE, DEPARTMENT OF**

Agriculture Development Division

Regulation No. 351 Julian Stille Value-Added Agriculture Processing and  
Agricultural Production Ventures, R 285.351 - 285.356 (\*2001-20)  
Notice of Public Hearing (2001-20)

Fair, Exhibitions and Racing Division

Regulation No. 808. Payment of Breeder's Awards, R 285.808.1 - 285.808.4 (\*2001-20)  
Regulation No. 812. State Aid for Harness Horse Racing, 285.812.1 - 285.812.10  
(\*2001-20)  
Regulation No. 814. Michigan Futurity Races, R 285.814.1 - 285.814.9 (\*2001-20)  
Regulation No. 820. Michigan-bred Pari-mutuel Races, R 285.820.1 - 285.820.7  
(\*2001-20)  
Notice of Public Hearing - (2001-20)  
Regulation No 851. Michigan State Fair, R 291.301 - 291.497 (\*2001-17)  
Notice of Public Hearing - (2001-17)  
Regulation No. 852. Upper Peninsula State Fair, R 285.1101 - 285.1907 (\*2001-14)  
Notice of Public Hearing - (2001-14)

Pesticide and Plant Pest Management Division

Regulation No. 628. Seed Potato Certification, R 285.628.1 - 285.628.14 (\*2001-13)

\* Proposed Rules

Notice of Public Hearing (2001-13); (2001-14)  
Regulation No. 636. Pesticide Applicators, R 285.636.1 - 285.636.17 (\*2001-20)  
Notice of Public Hearing – (2001-20)

## **ATTORNEY GENERAL**

### **Guidelines**

Property Rights Preservation Act, 1996 PA 101, MCL 24.421 *et seq* (2001-14)  
Takings Assessment Guidelines (2001-19)

### **Opinions**

Ambulances, Emergencies, Hospitals, Public Health

Jurisdiction of medical control authority over emergency medical services

OAG 7072 (2001-2)

Correction 7072 (2001-4)

Correction 7072 (2001-10)

Annexation, Counties, Incompatibility, Public Officers and Offices, Villages

Incompatibility of Public Officers Act

OAG 7071 (2001-1)

Appropriations, Counties, Officers and Employees, Public Money, Register of Deeds

OAG 7076 (2001-5)

Boards and Commissions; Cities; Freedom of Information Act; Open Meeting Act; Public Body

OAG 7087 (2001-16)

Bonds, Criminal Law, Police

Police Department Imposing Fee for Receiving Court-ordered Bond

OAG 7070 (2001-1)

Campaign Finance Act, Elections, Municipal Corporations, Nonprofit Corporations, Public Body, Public Money

OAG 7080 (2001-8)

Campaign Finance Act, Gaming Control and Revenue Act, and Political Activity

OAG 7086 (2001-15)

Children and Minors, Mental Health

OAG 7092 (2001-20)

Cities, Elections, Incompatibility, Public Employees, Public Offices and Officers

OAG 7085 (2001-13)

Colleges and Universities, Native Americans, Public School Academies, Schools and School Districts

OAG 7090 (2001-18)

Counties, Firearms, Licenses and Permits, Open Meetings Act, Prosecuting Attorneys, Public Body, Sheriffs

OAG 7073 (2001-2)

Courts, District, Elections, Judges

OAG 7091 (2001-20)

Elections, Municipalities, Villages

OAG 7081 (2001-8)

Freedom of Information Act

OAG 7083 (2001-11)

Health Maintenance Organization; Insurance

OAG 7088 (2001-16)

Hospitals, Nurses, Public Health

OAG 7084 (2001-12)

Incompatibility, Prosecuting Attorney's, Public Offices and Officers

OAG 7093 (2001-20)

Insurance, Licenses and Permits, Preemption, Federal

OAG 7074 (2001-2)

Licensing and Regulation, Mechanics, Motor Vehicle Service and Repair Act

OAG 7082 (2001-11)

Mifepristone (RU-486) as Constituting an Abortion

OAG 7077 (2001-5)

Non Profit Corporation; Real Estate; Taxation; Tax Exemption

OAG 7089 (2001-16)

Public Offices and Officers

OAG 7079 (2001-6)

Taxation

OAG 7078 (2001-6)

**C**

\* Proposed Rules



**COMMUNITY HEALTH, DEPARTMENT OF**

Certificate of Needs – Review Standards for Hospital Beds (2001-4)  
Certificate of Needs – Review Standards for Hospital Beds (2001-9)  
Certificate of Needs – Review Standards for Nursing Home and Hospital Long-Term-Care Unit Beds (2001-9)  
Proposed Guideline - Patient Entitlements, 12-006-0001 and Representative Payee Resistance to Financial Liability Determination Process (2001-2)  
Proposed Agency Guideline Rescission – Access to Facility/Program Records, 04-008-0002 (2001-3)  
Proposed Agency Guideline Rescission – Health Legislation and Policy Development (2001-4)

**CONSUMER AND INDUSTRY SERVICES, DEPARTMENT OF**

Bureau of Commercial Services

Real Estate Appraisers, R 339.2301 – 339.23405 (\*2001-20)  
Notice of Public Hearing – (2001-20)  
Residential Builders' and Maintenance and Alterations General Rules, (2001-14)  
Residential Builders' and Maintenance and Alteration Contractors, R 338.1555 - 338.1555 (2001-20)  
Notice of Public Hearing - (2001-20)

Bureau of Construction Codes

Air Contaminants, R 325.51101 - 325.51108 (2001-8)  
Correction of Obvious Error, R 324.51108 (2001-19)  
Boilers, R 408.4001 - 408.4199 (2001-4)  
Part 4. Building Code, R 408.30401 - 408.30499a (2001-8)  
Correction of Obvious Error, R 408.30401 - 408.30538 (2001-17)  
Part 6. Personal Protective Equipment, R 408.40601 - 408.40641 (2001-13)  
Part 7. Plumbing Code, R 408.30701 - 408.30796 (2001-8)  
Part 9A. Mechanical Code, R 408.30901 - 408.30998 (2001-8)  
Correction of Obvious Error, R 408.30901 - 408.30998 (2001-15)  
Part. 14. Tunnels, Shafts, Caissons, and Cofferdams,  
R 408.41401 - 408.41483 (\*2001-14)  
Part 22. Signals, Signs, Tags and Barricades, R 408.42201 - 408.42243 (2001-20)

Bureau of Health Services

Chiropractic, R 338.12001 - 338.12014 (2001-8)  
Controlled Substances, R 338.3101 - 338.3199q (\*2001-5)  
Notice of Public Hearing – (2001-5)

Bureau of Health Systems

Freestanding Surgical Outpatient Facilities, R 325.3801 - 325.3877 (\*2001-2); (2001-10)  
Notice of Public Hearing – (2001-2)

\* Proposed Rules

Psychology, R 338.2501 - 338.2514 (\*2001-13)  
Notice of Public Hearing (2001-13)

Bureau of Regulatory Services

Child Care Centers, R 400.5101 - 400.5940 (\*2001-1); (2001-7)  
Notice of Public Hearing (\*2001-1)

Bureau of Safety and Regulations

General Industry Safety Standards Commission

General Industry Safety Standard Part 74 Firefighting, R 408.17401 - 408.17464 (\*2001-11)

Notice of Public Hearing (2001-11)

Part 18. Overhead and Gantry Cranes R 408.11801 - 408.11875 (\*2001-20)

Part 18. Notice of Public Hearing (2001-20)

Occupational Health Standards

MIOSHA

Abrasive Blasting, R 325.50251 – 325.50258 (\*2001-1); (2001-10)

Air Contaminants for Construction, R 325.60151 - 325.60161  
(\*2001-15)

Benzene, R 325.77101 (\*2001-20)

Benzene, R 325.77101 - 325.77115 (\*2001-2); (2001-6)

Bloodborne Infectious Diseases, R 325.70001 - 325.70018 (\*2001-6);  
(2001-13)

Chapter IV General Workplace Requirements, Part IV Medical and  
First Aid, R 325.47201 - 325.47201 (\*2001-038)

Forging Machines, R 325.52401 - 325.52401 (2001-18)

Medical Services and First Aid-General Industry, R 325.47201 -  
325.47201 (2001-038)

Part 11. Recording and Reporting of Occupational Injuries,  
R 408.22101 - 408.22142 (\*2001-19 Addendum)

Ventilation for Certain Hazardous Locations, R 325.52201 - 325.52201  
(2001-18)

Bureau of Workers' Disability Compensation

Worker's Compensation Health Care Services, R 418.10101 - 418.10501 (\*2001-2);  
(2001-8)

Notice of Public Hearing – (2001-2)

Worker's Compensation Health Care Services, R 418.10101 - 418.10501 (\*2001-17)

Notice of Public Hearing – (2001-17)

Director's Office

Architects, R 339.15101 - 339.15403 (2001-12)

Barrier Free Design Board, R 125.1001 - 125.1026 (2001-12)

Declaratory Rulings, R 338.81 (2001-4)

\* Proposed Rules

Illumination, R 325.47801 – 325.50902 (\*2001-9); (2001-13)  
Mobil Homes, R 125.1101 - 125.3069 (2001-12)  
Nursing, R 338.10101 - 338.10705 (2001-12)  
Procedural Rules, R 451.2101 - 451.3503 (2001-12)  
Professional Engineers, R 339.16001 - 339.16034 (2001-12)  
Professional Surveyors, R 339.17101 - 339.17404 (2001-12)  
Psychology, R 338.2501 - 338.2514 (2001-012)

Employment Relations Commission

General Rules, R 423.101 – 423.484 (\*2001-19 Addendum)  
Notice of Public Hearing - (2001-19 Addendum)

Liquor Control Commission

Off-Premises Licenses, R 436.1401 - 436.1438 (2001-7)

Mortuary Science

General Provisions, R 339.18901 – 339.18930 (\*2001-2); (2001-15)  
Notice of Public Hearing – (2001-2)

Occupational Health Standards Commission

Occupational Health Standards, R 325.70251 - 325.70251 (2001-5)

Public Service Commission

Uncollectibles Allowance Recovery Funds, R 460.2601 – 460.2625  
(\*2001-3); (2001-14)  
Consumer Standards and Billing Practices for  
Electric and Gas Residential Services, R 460.2101 - 460.2199 (\*2001-3); (2001-14)  
Notice of Public Hearing – (2001-3)  
Gas Safety, 460.20606 (2001-5)  
Telecommunication Services, (2001-13)  
Notice of Public Hearing – (2001-13)

State Fire Safety Board

New and Existing Penal Institutions Fire Safety, R 29.601 - 29.622 (2001-5)  
State-Owned and Leased Buildings Fire Safety, (2001-5)  
Health Care Facilities Fire Safety, R 29.1001 - 29.1053 (2001-5)

Unemployment Agency

Employment Security, R 421.1 - 421.302 (2001-2)

**CORRECTIONS, DEPARTMENT OF**

Emergency Rules, (2001-20)

**E**

\* Proposed Rules

**EDUCATION, DEPARTMENT OF**

State Board of Educators

Identification of Students Eligible for Bilingual Education Funds,  
R 388.701 - R 388.711 (2001-8)  
Special Education Programs and Services, R 340.1701 - 340.1873 (\*2001-5);  
(\*2001-14)  
Notice of Public Hearing – (2001-5), (2001-7), (2001-14)

**ENVIRONMENTAL QUALITY, DEPARTMENT OF**

Air Quality Division

Part 1. General Provisions, R 336.1101 - 336.1128 (\*2001-20)  
Air Pollution Control, R 336.1201 - 336.1299 (\*2001-5); (2001-15)  
Notice of Public Hearing – (2001-5)  
Part 3. Emission Limitations and Prohibitions - Particulate Matter, R 336.1301 -  
336.1374 (\*2001-16)  
Notice of Public Hearing – (2001-16)  
Part 4. Emissions Limitations and Prohibitions - Sulfur-Bearing Compounds, R  
336.1401 - 336.1404 (\*2001-16)  
Notice of Public Hearing – (2001-16)  
Part 6. Emission Limitations and Prohibitions - Existing Sources for Volatile  
Organic Compounds Emissions, R 336.1601 - 336.1651 (\*2001-16)  
Notice of Public Hearing – (2001-16)  
Part 7. Emission Limitation and Prohibitions - New Sources of Volatile Organic  
Compounds Emissions R 336.1701 - 336.1710 (\*2001-16)  
Notice of Public Hearing – (2001-16)  
Part 8. Emission of oxides of nitrogen from stationary sources, R 336.1801 - 336.1801  
(\*2001-20)  
Notice of Public Hearing – (2001-20)  
Part 9. Emission Limitations and Prohibitions – Miscellaneous, R 336.1901 -  
336.1942 (\*2001-16)  
Notice of Public Hearing – (2001-7), (2001-16)  
Part 9. Emission Limitations and Prohibitions – Miscellaneous, R 336.191501 -  
336.1916 (\*2001-20)  
Notice of Public Hearing – (2001-20)  
Part 10. Intermittent Testing and Sampling, R 336.2001 - 336.2060 (\*2001-16)  
Notice of Public Hearing – (2001-16)  
Part 11. Continuous Emission Monitoring, R 336.2101 - 336.2199 (\*2001-16)  
Notice of Public Hearing – (2001-16)

Drinking Water and Radiological Protection Division

Public Swimming Pools, R 325.2111 - 325.2199 (2001-2)  
Subdivisions of Land, R 560.401 - 560.405 (2001-2)  
Supplying Water to the Public, R 325.10401 - 325.10420 (2001-9)

Environmental Response Division

\* Proposed Rules

Environmental Contamination Response Activity, R 299.5501 - 299.5519  
(\*2001-12)  
Notice of Public Hearing – (2001-12)

Geological Survey Division  
Oil and Gas Operations, R 324.101 - 324.1301 (2001-2)

Surface Water Quality Division  
Water Resources Protection, R 323.3001 - 323.3025 (\*2001-18)  
Notice of Public Hearing – (2001-18)

Waste Water Management Division  
Water Resources Protection, R 323.1151 - 323.1169 (2001-16)

## **EXECUTIVE OFFICE**

### **Executive Orders**

No. 1 Department of History, Arts and Culture (2001-10)  
No. 2 Rescission of Executive Order No. 2001-1 (2001-14)  
No. 4 Department of History, Arts, and Libraries, Michigan Quarter Commission  
(2001-15)  
No. 6 President's New Airline Safety Package (2001-18)  
No. 8 Michigan Pharmacy and Therapeutics Committee, Michigan Department of  
Community Health (2001-19)

### **Executive Reorganizations**

No. 3 Department of Information Technology, Department of Management and  
Budget (2001-15)  
No. 5 Michigan Justice Training Commission and Michigan Justice Training Fund;  
Commission on Law Enforcement Standards and Law Enforcement Officers Training  
Fund; Michigan Commission on Law Enforcement Standards; Michigan Department  
of State Police (2001-16)  
No. 7 Michigan State Industries Advisory Board, Michigan Department of  
Corrections (2001-19)

### **Office of Regulatory Reform**

Correction Memorandum (2001-13)  
Correction Memorandum (2001-17)  
Correction Memorandum (2001-19)

## **H**

## **COMMUNITY HEALTH, DEPARTMENT OF**

Health Legislation and Policy Development  
Access to Facility/Program Records, 04-08-0002 (2001-6)  
Patient Entitlements, 12-006-0001 and Representative Payee

\* Proposed Rules

Resistance to Financial Liability Determination Process, 12-004-0004 (2001-6)

**N**

**NATURAL RESOURCES, DEPARTMENT OF**

Law Enforcement Division

Regulation of Lands Administered by the DNR, R 299.291a – 299.932 (\*2001-1)

Notice of Public Hearing – (\*2001-1); (2001-20)

Special Local Watercraft Controls, R 281.700.1 - 281.783.2 (2001-17)

**T**

**TREASURY, DEPARTMENT OF**

Bureau of State Lottery

Lottery, R 432.1 - 432.38 (\*2001-9); (2001-16)

Notice of Public Hearing – (2001-9)

Michigan Merit Award Board

Test Administration Ethics Procedure, R 390.1501 - 390.1525 (\*2001-10)

Notice of Public Hearing (2001-10)

Sales, Use, and Withholding Taxes Division

Airport Parking Tax, R 207.121 - 207.130 (2001-18)